Annual Report 2008-2009

Office of the Ombudsman

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ISSN 1708-0851

June 23, 2009

The Honourable Steve Peters
Speaker
Legislative Assembly
Province of Ontario
Queen's Park

Dear Mr. Speaker,

I am pleased to submit my Annual Report for the period of April 1, 2008 to March 31, 2009, pursuant to section 11 of the *Ombudsman Act*, so that you may table it before the Legislative Assembly.

Yours truly,

André Marin
Ombudsman

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Ombudsman's Message – Championing Value in Hard Times

PHOTO BY BRIAN WILLER

Ontarians, like everyone else, have been greatly affected by the global recession this past year. Just as individuals and businesses are coping with job losses and financial stress, our governments are grappling with increased demand for services and deficit budgeting. This is a time for tighter belts, not only within families, but for governments too. At times like these, the value of public services comes into sharp focus. That value must be ensured, not just in terms of how much taxpayers get for their money, but in the quality and effectiveness of the services they receive.

That is why I take particular pride in presenting this Annual Report. It demonstrates that we in the Office of the Ombudsman are delivering big value on a small budget. We do this in three ways: 1) Resolving **thousands of individual complaints** about government services, saving all parties aggravation and even litigation; 2) Employing an **inexpensive, efficient process** to consistently produce results; and 3) Generating widespread savings by **fixing broad systemic problems**, making entire government programs better and more efficient.

Even casual readers of my Annual Reports know, however, that the government of Ontario is not taking full advantage of the value we offer. Our jurisdiction is limited. We do not have the authority to root out bureaucratic inefficiency, indolence and bad judgment in some of the areas that matter most to Ontarians – and for which they pay the most. We are excluded from overseeing what we call the MUSH sector: **M**unicipalities, **U**niversities, **S**chool boards, **H**ospitals and long-term care facilities, as well as children's aid societies and police. These are areas where thrift, sensible government and good judgment are acutely required, yet the government of Ontario declines our help, and it is costing all of us. If we want more efficient and safer government for Ontarians – as the lean times we are now enduring demand – the decision about our role in these sectors should be based on what ombudsmanry in general, and this Office in particular, can offer.

The Value in Return

Even when we are flush with cash, as consumers we expect value in return for what we pay. The taxpayers of Ontario pay for the Office of the Ombudsman to minimize unintended harm and unfair treatment at the hands of the provincial government, in the sectors in which we have jurisdiction. The value we return for the people's modest investment of just over $10 million a year can be measured not just in money – although we routinely help save or secure thousands of dollars for individuals. It also lies in the unquantifiable moral dividend that is earned when someone who has repeatedly run up against a bureaucratic brick wall finally receives help, or when we assist in improving the quality of governance on a broad systemic scale. Stories of such successes abound in this Annual Report.

"The value we return for the people's modest investment of just over $10 million a year can be measured not just in money, but in the moral dividend that is earned when someone finally receives help."

The Value in Complaint Resolution

This year marks the 200th anniversary of the first modern parliamentary ombudsman, established in Sweden in 1809 – although Canada did not have its first provincial ombudsman until 1967. In their earliest incarnation, ombudsmen around the world served as officials who could help the "little guy" who was being treated unfairly by big institutions. They would quietly give citizens information about where to go or what to do, or work behind the scenes to get bureaucrats to fix individual problems. More recently, my Office has evolved into a vehicle for achieving better governance, tackling large investigations and resolving problems that literally affect millions of people. But I am proud to say that complaint resolution remains a large part of what we do. In this past fiscal year, we dealt with **16,742** complaints and inquiries and resolved the vast majority.

SEPTEMBER 24, 2008: Ombudsman André Marin introduces guest speaker Michelle DiEmanuele, former Ontario associate secretary of cabinet, at the "Sharpening Your Teeth" training course for adminstrative watchdogs.

The value in providing effective complaint resolution cannot be overstated. This is because despite their best intentions, large institutions like the government of Ontario and its 500 or so organizations easily become "locked" in their own systems, burdened by bureaucracy and rigid rules. Individuals can become invisible. They become cases to be completed or files to be processed, instead of people who can be harmed by disregard or delay. Elephantine public institutions can move clumsily, knocking over or even crushing the very people they are there to serve.

As always, the **Case Summaries** in this report give examples of the concrete results our work has produced in response to complaints. The first one is an all-too-common case of lost paperwork and the failure of public servants to muster the motivation to find it. This might sound mundane, until it is appreciated that the lost paper prevented a couple from completing the adoption of one child and pursuing another. Like so much of our work, this story is not really about misfiled documents. It is about how inept administration was frustrating two parents' efforts to build a family – and how we helped end their senseless emotional turmoil.

There is a similar account of a woman whose international travel plans were on hold because officials wrongly insisted there was no record of her birth at an Ontario hospital, meaning she could not get a birth certificate or a passport. There is another of a man who was going to lose 2-6 weeks of work because of unnecessary delay in reviewing proof that he was medically fit for his "Class A" driver's license. We fixed both cases.

But our efforts don't just nudge or speed bureaucracy – sometimes they even enhance the health of those who live here. This past year, we secured health care coverage for thousands of former foreign students working in Ontario – coverage that had been lost because the province had not adapted its rules to federal changes in work permits. We obtained necessary funding for a non-approved but safe and effective treatment for a diabetic who could not tolerate synthetic insulin. And we persuaded authorities to reconsider funding a kidney transplant at a U.S. hospital for a 70-year-old man – by revealing that their original decision had been partly based on morbidity and mortality data derived from a children's hospital!

We have also assisted in putting food on the tables of single parents. There are stories in this report of the Family Responsibility Office (FRO) writing off support payment cases as "unenforceable" – leaving the unpaid ex-spouses no recourse but to collect considerable sums in social assistance – until we helped get them enforced. The government was even able to recoup thousands of dollars in welfare payments. We also stepped in when the FRO mistakenly wiped away thousands of dollars in support arrears because of a misread court order, and in another case where it allowed one-month grace periods to a "deadbeat dad" who was routinely late in his payments.

And then there is the usual cast of bizarre decisions we had to make right, such as the refusal to give Northern Health Travel Grant money to a new mother whose baby was airlifted to a southern Ontario hospital because she didn't initially accompany the child, even though the reason was because she herself was hospitalized for several days, or to deny a similar grant to the family of a disabled youth because he had not signed his form, even though he was incapable of signing his own name. There are even stories of the province attempting to collect money from people to whom it in fact **owed** thousands of dollars!

SEPTEMBER 30, 2008: Ontario Ombudsman André Marin releases *Oversight Unseen*, his report on SORT's probe of the Special Investigations Unit (SIU).

These are but a sampling of the thousands of cases we shepherd through the Alice-in-Wonderland sojourn that government bureaucracy can become. The value this offers is not only in the immediate solutions we are able to procure for so many people, but in the benefits it brings to government at large. The province cannot afford to embitter and alienate its own; a healthy democracy depends on fidelity and support. Our Office gives value by demonstrating to citizens, through our very existence, that their government cares.

> "Our Office gives value by demonstrating to citizens, through our very existence, that their government cares."

The Value in Systemic Investigations

As important and indispensable as it is to the interests of Ontarians and to the health of government, the traditional "complaint resolution" model of ombudsmanry is no longer adequate, if ever it was. It is not enough to wait passively for complaints to be made after the damage has been done, or while it is occurring. Moreover, as our experience confirms, problems tend to cluster. Where patterns show themselves, it is likely because of systemic problems. Addressing those complaints on a case-by-case basis may solve the problem for each complainant, but it is inefficient, because the root conditions remain – meaning others will continue to suffer. In April 2009, in a keynote address to a conference marking the aforementioned 200th anniversary of ombudsmanry as we know it, University of Ottawa professor Gilles Paquet urged ombudsmen across Canada and elsewhere to modernize their approach. His address, entitled "Failure to Confront," and a related paper called *Ombuds as Producers of Governance*,* contended that:

* This paper can be found on our website, www.ombudsman.on.ca

"... the only way out of this quandary is greater depth in the inquiry process, accepting the need to tackle the issues revealed by the cases head-on, with an explicit intention to unearth and expose the source of the problem, and to become the architect of better governance arrangements capable of eradicating the cause of the difficulties."

This, in Prof. Paquet's words, is "value-added ombudsmanry," since it elevates the ombudsman from a mere complaints department to an "architect of better governance." This latter role is not only one in which we in the Office of the Ombudsman of Ontario have excelled, but one we helped to pioneer.

One of the first steps I took upon assuming this position in 2005 was to create the **Special Ombudsman Response Team (SORT)** to tackle high-profile systemic investigations, with expertise and despatch. Since SORT's creation, its investigations have had an enormous impact on government policy. The property tax assessment system has been overhauled, as has the security of the lottery system. Medical screening for newborn infants has been revolutionized, and it is no exaggeration to say that lives have been saved. Compensation for victims of crime, once mired in delay and operating in a culture of bureaucratic obstruction, has been improved. SORT has exposed deficiencies in the Special Investigations Unit that investigates serious civilian casualties involving police, and helped engender a more rational process for reviewing the legal accounts of state-funded criminal counsel. More recently, SORT has looked into problems with regulation and oversight of colleges, and is nearing completion of an investigation into the enforcement of quality standards for long-term care homes.

Part of SORT's value is that it is not a "hit-and-run" squad. We follow up on every SORT investigation. We demand and receive agreement from government organizations to report back to my Office on their progress in implementing my recommendations. We re-investigate to confirm the progress that is claimed, and we keep the pressure on.

> "The systemic work we have done has brought credit not only to this Office but to the province as a whole."

The systemic work we have done has brought credit not only to this Office (as the Feedback section of this report attests) but to the province as a whole. Our reports have made waves internationally, and ombudsmen and other administrative investigators from across Canada and around the world have sought to learn the techniques we have developed for systemic investigations. We have trained more than 100 of them – on a complete cost-recovery basis – at our annual "Sharpening Your Teeth" training conference, conducted by SORT, and I have also been invited with executive staff to conduct training in countries from South Africa to Hong Kong to Trinidad and Tobago. Again, all costs were paid by the host countries, because they recognize that our training program is unique in the world, and they appreciate the value that the Ontario brand of systemic investigations will bring to their citizens. Already, our work has been emulated. Jurisdictions across North America have used our lottery report, for example, to inspire their own investigations, which have in turn uncovered "insider win" problems on a massive scale – sparking security reforms to protect millions of lottery players.

Ombudsman staff resolve thousands of complaints a year through early resolution, shuttle diplomacy, and efficient investigation.

The Inexpensive Process

Without question, our systemic SORT investigations have inspired dramatic improvement in the quality of governance that Ontarians are receiving. Adding even more value to these results is the fact that the bang is bought with relatively few bucks. The ombudsman model is the least expensive dispute settlement method yet devised. It calls for speed and informality, without rigid procedures. Ombudsmen are not governors, either by law or democratic convention. We cannot tell those who govern what to do. We must achieve results without powers of compulsion, acting as the "conscience" of an institution by sharing our judgment about whether it is acting fairly or reasonably. If we want to make a difference, we have to be right, and we have to persuade.

Our inability to compel actually increases our efficiency, for whenever powers of compulsion exist, traditional "due process" – with all of its delays and complications – follows. The tools of the ombudsman are not legal pleadings, or adjudication and binding judgments worked out in panelled rooms filled with paid-by-the-hour lawyers and per diem adjudicators. The tools of the ombudsman are fact-finding and reason, communicated by phone and in face-to-face meetings. Our cases do not sit long, like legal briefs, in filing cabinets. We need to turn them over efficiently, and keep forms and formalities to a minimum. The very role of the ombudsman is to broker the efficient, timely and low-cost resolution of complaints – be it on an individual or a systemic scale. This is what we do, and we do it well.

Again, borrowing from Professor Paquet:

> "The independence, accessibility, informality, cheapness, and speed of the ombudsing process, together with the powers of investigation ... all these features make ombudsing better suited to appreciate the new fluid realities, and better prepared to deal with governance failures than the more traditional legal (more rigid) and political (less reliable) processes."

If anyone doubts that, compare a SORT investigation to a public inquiry. We can achieve so much more for so much less, and with so much more precision. We know exactly where to go because the pattern of complaints we receive shows us the way.

The Savings We Generate

I am mindful that some would choose to downplay the value we offer by pointing to the costs of the recommendations we make. To be sure, our recommendations sometimes do require the outlay of government funds. Every time we facilitate or negotiate a benefit payment to a complainant, it comes from the treasury. Our systemic investigations have prompted the government to make many sweeping reforms. Some of those have saved a great deal of money, some have been revenue-neutral, and a few have come with significant price tags. But in every case, the government has had the last word. Our recommendations cost only what the government is persuaded to spend – and then it chooses to do so because it is persuaded that there is value in what we say.

This report includes updates on several of our highest-profile investigations, and they bear this out. For example, in *Getting It Right*, our 2006 investigation of the Municipal Property Assessment Corporation (MPAC), we resisted calls from many stakeholders to recommend abandoning the market-value approach to property assessment, because this is a fiscal matter requiring political judgment. The result, however, as assessments finally resumed this past year, has been a more transparent operation that is far more fair to property taxpayers.

Similarly, in our recent investigation into the administration of the Positron Emission Tomography (PET) scan program and patient access to PET technology, we have been mindful of the fact that health care dollars are premium dollars. As for our ongoing investigation into the Hamilton Niagara Haldimand Brant Local Health Integration Network, it is not about health care spending, but about the decision-making and consultation processes followed in restructuring health services.

In some cases, money has been spent on crucial reforms after we revealed it was otherwise going wasted or unused. Since our 2007 report on the long-ignored and grossly underfunded Criminal Injuries Compensation Board (CICB), *Adding Insult to Injury*, the CICB has been allocated more than $100 million to improve services and clear its enormous case backlog. As our report noted, money to help fix the CICB's problems had always been there, languishing in the Victims' Justice Fund (money raised through surcharges on fines). We simply recommended it be used as intended.

Since our much-publicized investigation of the Ontario Lottery and Gaming Corporation (OLG), and our 2007 report, *A Game of Trust*, the corporation has spent hundreds of millions of dollars to improve security and better protect the public from "insider" fraud. This year, the OLG released an audit that estimated "insiders" had taken home nearly $200 million in prizes in the past 13 years, nearly double its original estimate. While the amount of actual fraud may still never be known, the OLG's renewed commitment to protecting the public is paying dividends – it has curbed most of the fraudulent behaviour it identified, safeguarding dollars not just for deserving winners, but for the public projects funded by its revenues. And lottery revenues are rising – a clear sign that the public trust is rebounding.

In our 2005 report *Between a Rock and a Hard Place*, we revealed the abhorrent situation where parents of severely disabled children who could not get funds to have them cared for in a residential facility were forced to surrender them to children's aid societies so that the state would provide the required care. The children were getting the care they needed, but at the considerable moral price of their parents having to pose as unfit. The solution we offered – finding the money outside of the child protection system and ending this practice – cost no more than what was already being spent, while sparing untold emotional trauma for the families. Moreover, the cost of pointless child protection applications was saved. The value of this investigation is still being demonstrated, as we have resolved several new complaints about this practice again this year, by diligently following up on our previous work.

In 2008, our report *A Test of Wills* dealt head-on with government waste by reviewing how the province wound up spending $1.1 million to pay the runaway legal bills of a murderer and self-proclaimed millionaire who had given away his assets in order to get legal aid. Not only did that report inspire the development of systems and practices that will reduce the risk that this will ever happen again, it also led to unprecedented efforts by the government to potentially recoup the money from both the killer and any lawyers who may have over-billed.

Often, the money spent in response to our reports saves money in the long run. That is unequivocally so in the case of infant screening. While there are costs associated with implementing the kind of screening we recommended in our 2005 report *The Right to be Impatient*, in the long term that screening will reduce health costs. Under the previous, antiquated program, 50 children a year were dying or becoming severely disabled, requiring exceptional medical measures. Those expenses will be saved. In an investigation we reported in last year's Annual Report, oxygen saturation monitors for children with severe respiratory problems were provided for home use. The cost of providing the machines was far outweighed by the savings realized by not keeping these children in hospital. Similarly, the cost of providing meaningful and timely mental health services for the traumatized children of soldiers from Canadian Forces Base Petawawa, as we recommended in 2007, will mean social and health care savings in future.

> "How many of the complaints we resolved would have ended up in litigation had we not gotten involved?"

Beyond all this, there are indirect savings – such as the litigation costs that we save by resolving disputes informally, and by identifying systemic areas of potential conflict and helping to fix them before they create more casualties. Every case that enters the court or administrative tribunal system costs the province significant money. How many of the complaints we resolved would have ended up in litigation had we not gotten involved? One case summary in this report describes how the Family Responsibility Office told a mother she would have to go to court to collect money owed to her. Had she done so, legal aid and courtroom costs could have cut deeply into the $66,921 that was at stake.

A MUSH Neglected Sector

This past year, on **2,336** occasions, residents of Ontario asked us to help them cope with the MUSH sector. The number of complaints and inquiries we received about hospitals and long-term care facilities doubled. Yet we have had to turn most of these people away because we do not have the authority. We in Ontario can do better. We can follow the example of other provinces, and bring the value of ombudsman scrutiny to the MUSH sector. All we need is for the government of Ontario to extend this Office's limited mandate.

As this Annual Report explains, in cases where we have managed peripheral involvement in addressing unfairness or inefficiencies in the areas of health and long-term care, or policing or child protection, we have done so by dancing on the edge of our jurisdiction – by overseeing the work done by those who oversee these fenced-off areas. To achieve our full potential, we need to be able to go past the barriers to where the real work needs to be done.

Our only foray into the municipal sector is in the enforcement of open meetings – a jurisdiction that began in 2008 under failed amendments to the *Municipal Act, 2001*. I say "failed" because the legislation is incoherent. Some citizens can call on our Office's expertise, resources and extensive powers of inquiry to investigate their complaints about closed municipal meetings – but **only** if their municipality has chosen to let us in. Any municipal government can opt out by appointing another investigator of its own choosing. Who else gets to choose those who will police them?

Not surprisingly, about half of Ontario's municipalities have taken that route, while the other half have either chosen or defaulted to my Office's investigations, which are conducted by our Open Meeting Law Enforcement Team (OMLET). We have developed considerable experience in this area, and we are getting results. Yet municipalities who dislike the rigour we bring to this important task can, in place of a real watchdog, choose a lapdog and still be in compliance with the law. Even when appointed with the best of intentions, this patchwork of investigators cannot hope to be uniformly effective in enforcing transparency at the municipal level. It is hard to imagine how any internally appointed investigator could have stood up, for example, to the obstruction and legal game-playing I experienced from Oshawa's mayor and legal counsel during an investigation there. The result, after just one year of this new "Sunshine Law" regime, is that the "open meeting" obligations do not have the same intensity or mean the same thing in all municipalities. There is no sense in this.

As for the rest of the MUSH sector, think of what we could do in the hospital sector at a time when health care dollars are scarce and where inefficiencies can cause death or abject suffering, or in the child welfare area, where administrators and workers struggle with limited resources to help vulnerable children. And think of long-term care and the imperative of making the system as good and fiscally efficient as it can be at a time when our population is aging. We are poised to help and remain hopeful that we will one day be able to do so.

Looking Ahead

Our Office demonstrates year in and year out that we have, on a shoestring, built a world-class oversight mechanism that employs the most cost-effective methods to achieve fairness and to improve the quality of government. In the areas where we have jurisdiction, we have demonstrated our value. We have helped make systems not only fairer and more effective, but leaner and cheaper by targeting waste, poor performance, duplication, delay and inefficiency.

This report tells a promising story in grim times. It shows the great value of ombudsman scrutiny, but also the critical importance of a strong, committed public service. It relates the experiences of real people who turned to their government for help, were frustrated, but ultimately had their faith restored when sensible solutions were found.

The value of that public trust is immeasurable, but it is the best measure of what all of us strive for in the service of the people of Ontario. We are proud and privileged to have achieved so much this year, and we look forward to sharing many more such stories as we continue our work.

MAY 15, 2008: Sue Haslam, the Ombudsman's Manager of Investigations, speaks to the Federation of Northern Ontario Municipalities conference in Sault Ste. Marie about investigations of closed municipal meetings.

The Year in Review

Beyond Scrutiny – MUSH Sector Update

Despite repeated calls for modernization of the Ombudsman's mandate, Ontario continues to rank last in Canada in terms of authorizing the provincial ombudsman to consider complaints about the **MUSH** sector, which includes **m**unicipalities, **u**niversities, **s**chool boards and **h**ospitals, as well as long-term care homes, police and children's aid societies.

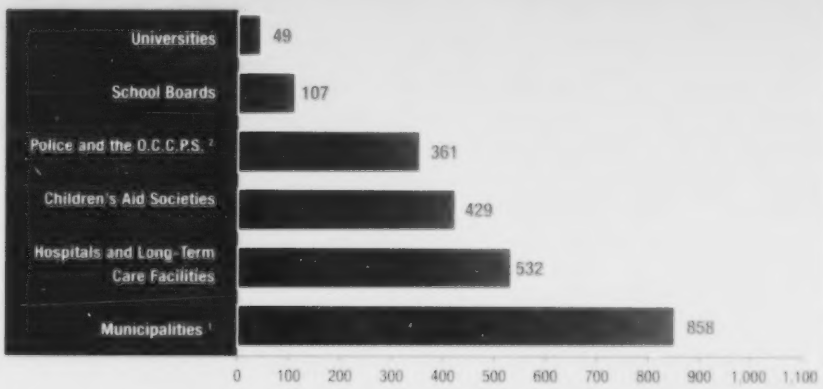
This year, our Office received **2,336** complaints about these organizations, which we were powerless to investigate.

LAGGING BEHIND

How Ontario's Ombudsman mandate compares to others in key areas of jurisdiction

	Boards of Education	Child Protection Services	Public Hospitals	Nursing Homes and Long-Term Care Facilities	Municipalities	Police Complaints Review Mechanism	Universities
Ontario	No	No	No	No	No	No	No
British Columbia	Yes	Yes	Yes	No	Yes	No	Yes
Alberta	No	Yes	Yes	Yes	No	Yes	No
Saskatchewan	No	Yes	Yes	No	No	Yes	No
Manitoba	No	Yes	Yes	No	Yes	Yes	No
Quebec	No	Yes	Yes	Yes	No	Yes	No
New Brunswick	Yes	Yes	Yes	No	Yes	Yes	No
Newfoundland and Labrador	Yes	No	Yes	Yes	No	Yes	Yes
Nova Scotia	Yes	Yes	Yes	Yes	Yes	Yes	No
Yukon	Yes	Yes	Yes	Yes	Yes	No	No

MUSH SECTOR COMPLAINTS AND INQUIRIES
RECEIVED DURING FISCAL YEAR 2008-2009 TOTAL: 2,336



[1] Excludes complaints and inquiries received about closed municipal meetings.
[2] Ontario Civilian Commission on Police Services.

The Year in Review

Beyond Scrutiny – MUSH Sector Update

MUSH m

u s h

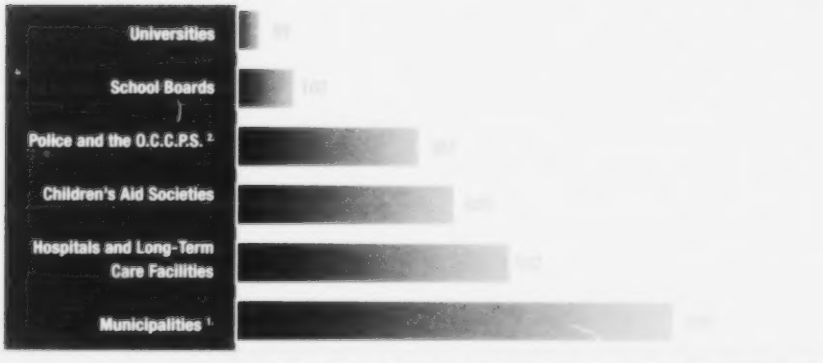
2,336

LAGGING BEHIND

How Ontario's Ombudsman mandate compares to others in key areas of jurisdiction

Ontario	No	No	No	No	No	No	No
British Columbia	Yes	Yes	Yes	No	Yes	No	Yes
Alberta	No	Yes	Yes	Yes	No	Yes	No
Saskatchewan	No	Yes	Yes	No	No	Yes	No
Manitoba	No	Yes	Yes	No	Yes	Yes	No
Quebec	No	Yes	Yes	Yes	No	Yes	No
New Brunswick	Yes	Yes	Yes	No	Yes	Yes	No
Newfoundland and Labrador	Yes	No	Yes	Yes	No	Yes	Yes
Nova Scotia	Yes	Yes	Yes	Yes	Yes	Yes	No
Yukon	Yes	Yes	Yes	Yes	Yes	No	No

MUSH SECTOR COMPLAINTS AND INQUIRIES
RECEIVED DURING FISCAL YEAR 2008-2009 TOTAL: 2,336



Hospitals and Long-Term Care

Typically, the public services provided by organizations within the MUSH sector have significant personal impact on the daily lives of Ontarians. This is particularly evident with respect to the **532** complaints and inquiries we received this year about hospitals and long-term care homes – double last year's number.

These complaints include allegations that hospital patients had died from *C difficile* and influenza as a result of inadequate infection control, and that residents of long-term care homes had died or been seriously injured because of unsafe conditions. Unfortunately, we were unable to directly assist these complainants with their concerns, as Ontario remains the only province in Canada whose ombudsman does not have some jurisdiction over hospitals.

> "Self-investigation by the government and reporting by hospitals is not the best way to get answers to the troubling issue of C. difficile outbreaks and other systemic problems in hospitals and nursing homes. The province would be well advised to agree to independent oversight by the ombudsman's office."
>
> – Toronto Star *editorial, July 6, 2008*

The Ombudsman is only able to investigate complaints about a hospital in the relatively rare circumstance where the Ministry of Health and Long-Term Care has taken direct control of its management through the appointment of a supervisor. Five hospitals were subject to provincial control for varying periods this past fiscal year. At the time of writing this report, three hospitals – Huronia District Hospital, William Osler Health Centre and Quinte Healthcare Corporation – were being managed by government-appointed supervisors, meaning the Ombudsman was able to take complaints about those facilities. The majority of hospitals and all long-term care homes in the province remain outside of the Ombudsman's jurisdiction.

As in the past, attempts were made this year through the introduction of private member's bills to extend the Ombudsman's investigative authority to hospitals and long-term care facilities. On June 5, 2008, Bill 89, the *Ombudsman Amendment Act (Hospitals and Long-Term Care Facilities), 2008*, introduced by NDP MPP France Gélinas, received first reading, followed on November 20, 2008, by Bill 130, the *Children's Safety and Protection Rights Act, 2008*, introduced by PC MPP Lisa MacLeod, which included provision for Ombudsman jurisdiction over hospitals. The latter of these failed to pass second reading on April 30, 2009.

In recognition of the unique concerns of seniors, another private member's bill, Bill 102, the *Seniors' Ombudsman Act, 2008*, was introduced on September 25, 2008 by Liberal MPP Mario Sergio. While the bill called for the creation of a separate Ombudsman to consider seniors' complaints, when it was passed at second reading and referred to the Standing Committee on General Government on October 23, 2008, the sponsoring member and several members from both opposition parties supported the alternative of expanding the Ontario Ombudsman's authority to address seniors' concerns.

Debate on Bill 102 (Seniors' Ombudsman) – from *Hansard*, October 23, 2008

Mario Sergio (L – York West): [T]here is a recommendation that this House will give the Ombudsman the authority to deal as well with seniors' issues. I do hope that I will have their support ... and that indeed Mr. Marin, the Ontario Ombudsman... will be given the authority to do exactly that.

Cheri DiNovo (NDP – Parkdale-High Park): Yes, of course we want to see Ombudsman oversight of long-term care. We want to see Ombudsman oversight of hospitals. We want what's best for seniors.

Christine Elliott (PC – Whitby-Oshawa): Everyone who has commented on that in this place agrees that the Ombudsman should have jurisdiction to investigate these kinds of complaints and there's no reason why he can't... So there's no question that the Ombudsman is fully capable of taking on this responsibility.

Regrettably, instead of moving forward, the Ombudsman's authority with respect to the hospital sector actually took a step backward this year on December 15, 2008, when the province turned over responsibility for the last provincially-run psychiatric facility – in Penetanguishene – to a corporation operating as a public hospital. In the past, our Office had been instrumental in facilitating improvements to patient living conditions and the hospital's policies and practices, to the benefit of patients and their families. Now some of the most vulnerable members of our society have lost their right of recourse to the Ombudsman.

In July 2008, the Ombudsman announced an investigation into the Ministry of Health and Long-Term Care's monitoring of long-term care homes – an ongoing investigation that has prompted hundreds of complaints, but which, because of mandate limitations, does not include the investigation of long-term care homes themselves.*

"Right now, our investigation is to investigate the government investigator of the long-term care facility. Do I believe I am hamstrung by not going beyond those two issues? Of course."

– Ombudsman André Marin at press conference announcing SORT investigation into government monitoring of long-term care homes: July 16, 2008

Children's Aid Societies

As the chart below indicates, our Office continues to receive complaints about children's aid societies (CASs) that we are forced to turn away. We received a total of **429** complaints and inquiries about CASs this fiscal year. These complaints have increased significantly over the past eight years.

CAS COMPLAINTS AND INQUIRIES RECEIVED

Fiscal Year	2008-2009	2007-2008	2006-2007	2005-2006	2004-2005	2003-2004	2002-2003	2001-2002	2000-2001
Total complaints	429	431	609	436	308	297	304	262	283

These complaints raised a wide variety of issues and allegations, including:

- CAS refusal to investigate allegations of abuse;
- concerns about the care of children in CAS custody or supervision;
- concerns about CAS apprehension of children;
- CAS refusal to disclose information relating to the reasons for apprehension, or services provided to children in care;
- unreasonable demands placed on parents seeking access to children in CAS care;
- allegations of abuse of authority by CAS workers;
- a biased and adversarial complaint process;
- allegations of retaliatory actions against parents who challenged CAS decisions; and
- CAS failure to provide timely notice to parents of court dates.

Many complainants also felt they were at a disadvantage in challenging CAS actions, given that legal representation is expensive, while the CAS is represented by publicly funded lawyers.

The changes implemented in 2006, which revised the internal CAS complaints process and expanded the mandate of the Child and Family Services Review Board (CFSRB), have done little to assuage those who have sought our assistance. The board's authority to address complaints continues to be limited. This year, we received 10 complaints about the board itself. Complainants are often bewildered by the jurisdictional arguments and procedural rules they face during the board's review process, as well as its inability to deal with their core concerns.

In a recent CFSRB decision, a board member considered the strictures of the current complaint scheme, and observed that:

> ...the Board does not participate in assessing the validity of any complaints on their merits, nor is there anything for the Board to overturn or quash in such a process. **The Board's only substantive remedies are to redirect the complaint for further review or to order a CAS to provide written reasons for its "decision," i.e. the decision whether to take further action at the completion of the complaints process.**

The board member went on to note that people who raise concerns about the conduct of CASs end up confused when they find that the board's "review" is restricted to consideration of procedural allegations. He noted that an independent

investigative model – i.e., using an ombudsman or similar body – had been rejected in favour of an adversarial model in which "complainants bear the burden of advancing their complaints within the very organization about which they are complaining." He added that complainants might feel vulnerable and fear retribution for participating in the complaint procedure.

In the Legislature, attempts were made again this year to address the lack of Ombudsman oversight of child protection services through the introduction of private member's bills. On June 11, 2008, Bill 93, the *Ombudsman Amendment Act (Children's Aid Societies), 2008*, introduced by NDP MPP Andrea Horwath, received first reading. Bill 130, the *Children's Safety and Protection Rights Act, 2008*, also included provision for Ombudsman oversight of children's aid societies, but failed to pass second reading on April 30, 2009.

> "There needs to be accountability and the Ontario Ombudsman should be given complete 'absolute' power to over look the CAS... and have them all held accountable."
>
> – *Robert, via Facebook (Ontario Ombudsman Page)*

> "CAS is making decisions affecting the lives of families and in particular, innocent children and does so with impunity. We must bring these matters out of the closet and bring accountability to our precious and innocent children. Please write to your MPP and insist they support Bill 93."
>
> – *Randal, via Facebook (Ontario Ombudsman Page)*

In addition, the Ombudsman made submissions to the Standing Committee on Social Policy during its consideration of Bill 103, the *Child and Family Services Statute Law Amendment Act, 2009*, urging greater protection for communication between children and our Office. Consequently, amendments were made to the Bill that provide for improved access and communication with young persons by the Ombudsman and other specified individuals.

School Boards and Universities

This year, we received **107** complaints and inquiries about school boards across Ontario, including concerns about unsafe schools, inadequate support for children with disabilities and abuse in the classroom. As with hospitals, it is only where the province has taken over control of a school board that the Ombudsman has any right to investigate complaints about a school board; otherwise our Office must turn them away.

On June 4, 2008, amid a number of public scandals, the Toronto Catholic District School Board came under the management of a supervisor appointed by the Ministry of Education, following the discovery of inappropriate spending by trustees and the board's inability to balance its budget. The rest of the province's school boards continue to be exempt from the Ombudsman's scrutiny.

> "In five other provinces, the provincial ombudsman provides third-party recourse for parents when conflict arises with a school board. Ontario's ombudsman, André Marin, has proved the mandate of his office should be expanded in order to provide more protection to the public."
>
> – *Christina Buczek, letter to the editor,* Toronto Sun, *November 11, 2008*

In an effort to redress this situation, the private member's Bill 130, the *Children's Safety and Protection Rights Act, 2008*, also called for expansion of the Ombudsman's authority to include school boards as well as child protection services, but it was voted down at second reading on April 30, 2009.

As for post-secondary education, the Ombudsman is able to address complaints about Ontario's community colleges, but not universities. We were barred from reviewing **49** complaints and inquiries this year about universities.

Police

The Ombudsman's Office continues to receive a large number of complaints relating to police conduct and the process for review of public complaints about police, which we are unable to address.

We received **361** complaints and inquiries this year about the conduct of municipal and provincial police and the review of police conduct by the Ontario Civilian Commission on Police Services. An Independent Police Review Director was nominated by the province in May 2008, although at the time this report was written, the director's office had yet to open its doors.

The Ontario Civilian Commission on Police Services and the new Independent Police Review Director are both provincial government organizations. However, they have been expressly excluded from the Ombudsman's jurisdiction by statute, maintaining an archaic and anomalous barrier to independent Ombudsman oversight for complaints about police conduct.

Municipalities

The decisions of municipal governments affect citizens where they live, so it is not surprising that the majority of complaints we received about the MUSH sector concerned the conduct of municipalities. The Ombudsman received **858** complaints and inquiries about municipalities this year, covering a wide range of issues, all of which were insulated from our review.

The City of Toronto was required by statute to appoint its own Ombudsman in 2007. However, it took almost two years to fill this position and the office did not begin taking complaints until April 2009. While all other Ontario municipalities also have the option of appointing an ombudsman of their own, we have not been made aware of any which have done so yet – leaving citizens in most of the province without an effective, independent complaint mechanism to address concerns about local issues affecting their daily lives.

While the Ontario Ombudsman generally has no authority to investigate municipal complaints, as of January 1, 2008, his mandate was extended to include investigation of complaints about municipalities failing to comply with the open meeting requirements of the *Municipal Act, 2001*. Complaints and inquiries about closed meetings are handled by our Open Meeting Law Enforcement Team, or OMLET. Our Office received **127** meeting-related complaints and inquiries this year. These are reviewed in the OMLET section of this report.

Operations Overview

This past year, we are proud to report, we dealt with **16,742** complaints and inquiries in an effective and timely manner, with the majority of cases being dealt with within three weeks.

Examples of successfully resolved individual cases can be found in the Case Summaries section of this report. We have also continued to identify and review systemic issues in government administration, including in the areas of health care, employment standards, environment and natural resources and enforcement of child and spousal support orders.

At a senior level, our managers have quarterly meetings with officials from those organizations that have been among the top sources of complaints – including the Ministry of Correctional Services, Family Responsibility Office, Ontario Disability Support Program and the Municipal Property Assessment Corporation – in order to proactively deal with complaint trends and emerging issues.

Our focus in **correctional services** remains on addressing serious health and safety issues in provincial jails, while ensuring that the Ministry of Community Safety and Corrections fulfills its responsibility for addressing complaints internally. Other issues being reviewed include the processing of inmate appeals of internal disciplinary measures which affect earned remission time, and institutional responses to complaints about inmate-on-inmate assaults and the use of force by correctional officers.

Quarterly meetings with the **Family Responsibility Office** have emphasized ways it can better meet its obligations to enforce child and spousal support orders, including dealing with delinquent support payors by expediting warrants of committal to custody when they default on court orders, improving the process for deductions from their pensions and improving the registration and enforcement of liens on their property.

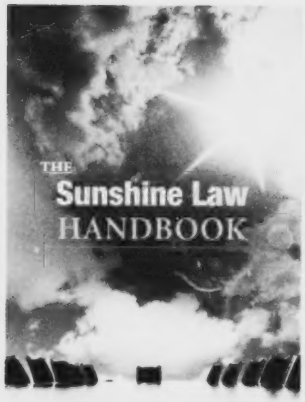
Our discussions with **Ontario Disability Support Program** officials have included complaint trends, the Ministry's review of the special diet allowance and upcoming changes to programs and social assistance rules. We have also reviewed complaints about the length of time taken to process appeals before the Social Benefits Tribunal. Over the past year, 16 complaints were received about delays of up to 13 months. We are dealing directly with the tribunal on this and closely monitoring its efforts to reduce delays.

In addition to our daily work, the Ombudsman's Office receives regular requests for advice and consultation on our operations from government agencies and other organizations at home and abroad. This past year, these included the City of Toronto Ombudsman, the federal Taxpayers' Ombudsman, and the Ontario French Language Services Commissioner.

Open Meeting Law Enforcement Team (OMLET)

The *Municipal Act, 2001* requires municipalities to conduct their council and committee meetings in public, with a few narrow exceptions. Since January 1, 2008, the Ombudsman has had the authority to investigate public complaints about closed municipal meetings, except in municipalities that have appointed their own investigators.

The Open Meeting Law Enforcement Team – OMLET – was created by the Ombudsman in the summer of 2008 and functions as a dedicated resource for investigating closed meeting complaints, as well as educating the public and municipalities about their open meeting obligations.



Open Municipal Meetings in Ontario

We received **127** complaints and inquiries this year with regard to the *Municipal Act*'s open meeting requirements, also known as the "Sunshine Law." Of these, **77** came within the Ombudsman's authority, while 50 had to be referred to other investigators that had been appointed by municipalities. Of those, the majority were quickly resolved.

While the requirement to hold municipal council meetings open to the public has existed in Ontario since 1866 and was expanded in 1995, many municipalities remain unfamiliar with the intricacies of the open meeting provisions. Contraventions of the open meeting requirements often arise not because of malfeasance on the part of municipal officials, but simply because of a lack of knowledge.

To counteract this, one of OMLET's objectives is to educate municipalities about their obligations and citizens about their rights with regard to open meetings. In November 2008, our Office published *The Sunshine Law Handbook*, which contains tips for municipal officials, and information about the law and investigations. To date, we have distributed some 3,500 copies of the Handbook to every municipal councillor, clerk and hundreds of municipal officials across Ontario, whether or not those municipalities use the Ombudsman as their investigator (and at no cost to them). The Handbook is also available to the public, and is posted – along with all of the Ombudsman's reports on closed meeting investigations – on our website.

OMLET staff have also attended at a variety of municipal conferences throughout the province to provide information about the open meetings law and the Ombudsman's role in enforcing it.

At the time this report was written, the Ombudsman was the investigator for closed meeting complaints in **188** municipalities, while the rest had chosen to hire their own investigators. This patchwork of investigators underscores one of the weaknesses of the present enforcement system: There are no uniform standards for investigations, and differences have emerged between investigators in how they perceive and apply their authority and the open meeting provisions. At present, if a municipality doesn't like the approach taken by one investigator, it can simply hire another. This happened after the Ombudsman's investigation of a closed meeting complaint in the Township of Emo (a summary of the case follows).

At the same time, several municipalities have opted to end contracts with the investigators they had hired and rely on our Office to investigate closed meeting complaints instead. These include the City of Clarence-Rockland, the Regional Municipality of Niagara, the Town of Petrolia, and the Town of Ajax. In the case of Ajax, town staff prepared a report for council that compared the track record of the investigative services provided to municipalities for a fee through Local Authority Services Ltd. (LAS – a subsidiary of the Association of Municipalities of Ontario) and those provided by our Office, which are free of charge. The report noted that "all investigations to date, regardless of the investigator responsible, have been completed in a fair and equitable manner" and found recommendations by both LAS and the Ombudsman to be "reasonable and consistent" and "completed in both a time-sensitive and appropriate" manner.

The report recommended that Ajax rely on the Ombudsman's services as of August 31, 2009: "Following a year-long review of the Ombudsman's approach to closed meeting investigations, staff have concluded that recommendations have been made in good faith and are applicable to the municipal framework," the report said, adding that staff were impressed by the "plethora of educational materials" developed by our Office, "which have proven to be both applicable and relevant to the municipal context."

In addition, it referred to the Ombudsman's mediation and early resolution efforts as indicating a focus "on effecting positive change with as little disruption to the municipality as possible."

When the Ombudsman determines that a municipality has violated the Sunshine Law, he may issue a report, which the municipality must make public. However, many cases are resolved informally without need for a report. Details of key cases handled by OMLET in 2008-2009 follow.

Selected OMLET Cases Completed in 2008-2009

Town of Lakeshore

We received a complaint that councillors for the Town of Lakeshore had inappropriately met in closed session and discussed raising their own salaries in January 2008 – a decision they later voted on in a public meeting in March 2008. OMLET staff contacted town officials about the complaint and received full co-operation from them in the resolution process. On March 10, 2009, Lakeshore council apologized to the public for discussing the matter in closed session and thanked the complainant for bringing the issue to our Office. Council also made a commitment that in future, such matters would be placed on the agenda and debated at a public meeting. Given the town's recognition of its obligations and its clear commitment to act openly and transparently in future, it was unnecessary for our Office to commence a formal investigation.

Regional Municipality of Niagara

The municipality's closed meeting of March 20, 2008 was the subject of two complaints to our Office. The meeting was closed to allow the council to discuss the purchase and renovation of property for the regional police service's headquarters.

OMLET staff made inquiries with the municipality, but did not conduct a full investigation. They determined that the subject matter was such that the meeting had been closed legally – however, the wording of council's resolution to take the meeting in-camera was generic and thus gave the public no insight as to what was being discussed behind closed doors.

The Ombudsman suggested to the municipality that it make its notices more informative from now on. The municipality agreed and the case was closed, without need for a public report. The case was made public, though, because the complainant happened to be the local newspaper, the *St. Catharines Standard*. The result was that even though a full investigation did not take place, the municipality committed to greater transparency and the public was informed. In an editorial on September 16, 2008, the newspaper commented:

"It is encouraging that Niagara Region is taking strides to be more transparent about what it discusses behind doors closed to the public. It may have taken some suggestions from the office of the Ontario Ombudsman to do so, but at least there is progress.... Councils should keep in mind that just because the *Municipal Act* says an item can be discussed in private, it doesn't mean it has to be discussed in private."

Township of Emo

Unfortunately, there is still resistance in some quarters to oversight of municipal open meetings – and not all municipal officials have viewed the complaints process as an opportunity to improve and embrace best practices. This negative attitude was best illustrated this year by the Township of Emo.

We received a complaint that, after its regular public meeting on April 8, 2008, Emo council had met secretly with representatives of a corporation that planned to develop a controversial abattoir in the municipality. Suspicions were raised after the council closed its doors to discuss a "personnel matter" at the end of its regular public meeting, but went on to discuss the potential purchase of the corporation's land in the event that its abattoir project failed. No public notice was given that this would be discussed during closed session. Subsequently, council returned to open session and – with the public no longer present – voted in favour of the potential land purchase.

To compound the situation, Emo council met again on April 22, 2008, and improperly entered into **another** closed meeting in an attempt to retroactively correct the April 8, 2008 minutes and change the resolution authorizing the earlier closed session.

Emo officials were unco-operative with the investigation, which the mayor described as a potential "waste of time." Then, despite the fact that all Ombudsman investigations are free of charge, on July 8, 2008, Emo council passed a resolution purporting to require citizens to pay a $500 fee for complaining to our Office – refundable only if the complaint was found to be valid.

The Ombudsman's investigation did not establish that Emo council had met in secret with the corporation, as originally alleged. However, he found evidence that the council had committed multiple contraventions of the open meeting requirements – illustrative of the very culture of secrecy that the "Sunshine Law" had been intended to eradicate. In his report, *Municipal Government by Stealth*, he made six recommendations addressed at assisting Emo in complying with the law and adopting best practices. He also urged the township to immediately revoke its $500 complaint fee, noting that it was retaliatory and "in flagrant disregard of the law." (Complaints are confidential and can be made directly to our Office without going through the municipality.)

Not only did Emo council strenuously object to the Ombudsman's report and reject his recommendations, but in an act of apparent reprisal, it voted to hire its own closed-meeting investigator to replace the Ombudsman.

> "Taken in its best light, the conduct of Emo council ... reflects basic ignorance of the purpose behind the open meeting requirements and how they are intended to work in practice ...[but] at its worst, it appears to be an ill-conceived and deliberate attempt to flout the law and manipulate it to serve its own ends."
>
> – *Ombudsman Andre Marin in his report on Emo council's closed meeting*

Township of Nipissing

Most municipalities we encountered this year were willing to co-operate fully with our Office. This was the case when we investigated a complaint about a special meeting of the council of the Township of Nipissing in April 2008. The "meeting" was actually a series of telephone calls by the mayor to councillors, asking them to approve an invoice for a new fire truck. The matter should have been considered at a regular open meeting.

However, the Ombudsman determined during his investigation that the council had been motivated by an urgent need to approve the invoice quickly, and had acted in good faith. To ensure that the open meeting provisions were respected in future, he recommended that the council immediately cease the practice of conducting "phone-around" meetings. Nipissing council accepted the recommendations and the mayor publicly expressed appreciation for the Ombudsman's role in oversight in this area.

Township of Baldwin

Similarly, the council of the Township of Baldwin acted quickly to accept and implement the Ombudsman's recommendations after he found numerous procedural irregularities in connection with a closed council meeting held in July 2008. In that case, the council's resolution authorizing the closed session was deficient. It had also inappropriately considered and voted on a matter in the closed session, and its record of the meeting was incomplete. The municipality's errors were largely due to problems with its procedure bylaw, and following the Ombudsman's report, *Into the Light*, it readily agreed to remedy the problems he had identified.

City of Oshawa

The newest of the nine narrow exceptions to the general rule that municipal meetings should always be public is the one that – since 2007 – allows meetings to be closed for the purposes of "education and training." This new aspect of the Sunshine Law was the focus of a complaint to the Ombudsman about a May 2008 meeting of Oshawa's Development Services Committee, which held a closed "education" session where councillors heard from a local business.

The Ombudsman found that the committee had neglected to issue a public resolution authorizing the session, and that while some of the content of the session could be characterized as "educational," the presenters had entered into the realm of lobbying when they began to discuss the company's future development and possible relocation in connection with the municipality's proposed zoning plans.

While the committee members did not engage in a discussion of this aspect of the presentation, they made no attempt to stop it from taking place. The Ombudsman found that the committee's responsibility extended beyond passivity, and that through its silence it had permitted the presentation to stray outside the permissible bounds. **"This is the very type of conduct that municipalities should scrupulously avoid occurring in a closed committee meeting,"** the Ombudsman said in his report, *The ABCs of Education and Training*, completed in March 2009. His recommendations focused on ensuring that the city complied with its legal obligations in future and implemented best practices for the conduct of its meetings.

The city co-operated with the investigation but the mayor disagreed with some of the Ombudsman's findings and recommendations. The mayor and city solicitor also disregarded the Ombudsman's confidential document handling instructions and refused to return a copy of the Ombudsman's confidential preliminary report. After repeated attempts at persuading city officials to return all copies of the document in their possession failed, the Ombudsman launched a follow-up investigation into the city's failure to co-operate, conducted by the Special Ombudsman Response Team (SORT).

The Ombudsman's report on that investigation, entitled *Pirating Our Property*, was tabled with the Legislature on April 27, 2009. In it, he found the city's behaviour was contrary to law and wrong – and one of the worst examples of non-compliance his Office had ever encountered.

"For more than 30 years, the Office of the Ombudsman of Ontario has been accorded co-operation and compliance by government authorities. Displeased with the report we issued in response to a closed meeting complaint, the City of Oshawa has broken that trend," Mr. Marin said, adding: "It would be impossible for us to provide the value that we do for Ontarians if government authorities were to greet us with the lawyer's games and resistance we met in this case. We cannot permit that to happen."

The city rejected the Ombudsman's findings and recommendations and continued to refuse to return the confidential document. It issued a response that was appended to the report.

The Ombudsman stressed that municipalities that engage the services of his Office to investigate closed meeting complaints must respect the fact that he is an independent officer of the Legislature. **"Municipalities cannot ask for the credibility and the independent stamp of our office, and then try to pull the strings. They can't have it both ways,"** he said, noting that if the city wanted "a lapdog rather than a watchdog," it was free to hire an investigator of its own choosing.

Township of Enniskillen

A closed meeting held on September 10, 2008 by the council for the Township of Enniskillen sparked a complaint to the Ombudsman. OMLET staff determined that during its closed session, the council had considered an issue relating to a proposed acquisition of land, which it is permitted to do in the absence of the public. Still, the investigation determined that the resolution authorizing the closed meeting was vague and incomplete, and that other topics were discussed at the meeting that could not be legally considered in closed session. In his report, *Being More Open About Closed Sessions*, the Ombudsman made four recommendations to assist the council to meet its obligations under the open meetings law in future.

Municipal Oversight 101: Not Opting Out Means Buying In – The Cautionary Tale of Oshawa's Intransigence

Ombudsmen around the world – including the Ontario Ombudsman's Office – rely on a time-honoured principle to help them exercise moral suasion in resolving cases. When an investigation is completed, a preliminary report is issued, soliciting the views of the organization under investigation. Organizations may want to modify a finding or a recommendation. Sometimes, the whole matter is resolved at that stage, with a mutual understanding between the Ombudsman's Office and the body under investigation, making the publication of a report a redundant exercise.

This stage of the process is part of the shuttle diplomacy that is the bread and butter of ombudsman operations. In order to have a full and frank exchange between the parties, confidentiality must be maintained. That is why the *Ombudsman Act* prescribes that investigations must be conducted in "private." To satisfy the legal obligations under the Act, the Ombudsman's preliminary report is shared under the strict conditions that it is privileged and that all copies must be returned within a certain time frame.

For years now, this practice has been respected by all ministries, agencies, boards and commissions of the Ontario government. The Ombudsman's Office's new authority to enforce open municipal meetings, however, has led to some misunderstandings. In the case of the Ombudsman's investigation of a May 2008 closed committee meeting, the city of Oshawa was inspired to raise legal creativity to a whole new level.

Oshawa is one of 188 municipalities that have chosen the oversight of the Ombudsman's Office for closed meeting complaint investigations. Despite accepting the Ombudsman's preliminary report on the above conditions, the mayor of Oshawa had the report copied and distributed internally – and the city's solicitor maintained the city had a legal obligation to retain the unauthorized copies pursuant to provincial privacy laws.

There are at least two very troubling components to these developments. First, organizations under the independent oversight of the Ombudsman should comply with their legal obligations to co-operate with the Ombudsman's Office. It undermines the authority and investigative independence of the Office for a city that accepts a document on a privileged basis to then proceed to blatantly breach its undertaking.

Second, municipalities should avoid spurious, time-consuming and costly legal manoeuvring whose only objective is to undermine the Ombudsman's work. In the Oshawa case, the delay tactics forced the Ombudsman's Office to obtain an opinion from the Ontario Information and Privacy Commissioner that stated the obvious: Municipalities are **not** obliged to retain a copy of the preliminary Ombudsman report to meet their obligations under the *Municipal Freedom of Information and Protection of Privacy Act*.

Communications and Outreach

The Ombudsman's Office relies on two-way communication with the public, to ensure public access to our services and to share news about our work. In 2008-2009, the Ombudsman enhanced communications through all forms of new and traditional media, as well as in-person outreach. News coverage of the Ombudsman's investigations continued to reach millions of people in Ontario and elsewhere, while our revamped website and forays into rapidly evolving social media were complemented by personal appearances by the Ombudsman and staff at public events.

Media Coverage

More than **1,100** news stories were published about the Ombudsman between April 1, 2008 and March 31, 2009, reaching an aggregate audience of nearly **78 million** people. The estimated advertising value of these articles (calculated by FPinfomart based on newspaper advertising rates and the length and display of the articles) was **$1.9 million**. There were also **675** news stories about the Ombudsman broadcast on radio and television.

Generally, media coverage was concentrated in Ontario and focused on announcements of new investigations or the release of special reports. For example, the announcement of the Ombudsman's investigation of the Ministry of Health and Long-Term Care's monitoring of long-term care facilities (July 2008) generated **154** print news stories, with an aggregate audience of **11.6 million** people and an estimated ad value of **$290,000**.

The Ombudsman also made public appearances and met with interest groups and media in three other provinces – Quebec, Manitoba and British Columbia – to discuss the need for independent oversight of police services and how other provinces can learn from Ontario's model. This topic also received wide regional and national coverage. In addition, the Ombudsman was in the news for receiving the Ontario Bar Association's Tom Marshall Award for excellence in public sector law. He was also named one of the "top three newsmakers of 2008" by the *Law Times*.

Website, E-Newsletter and Social Media

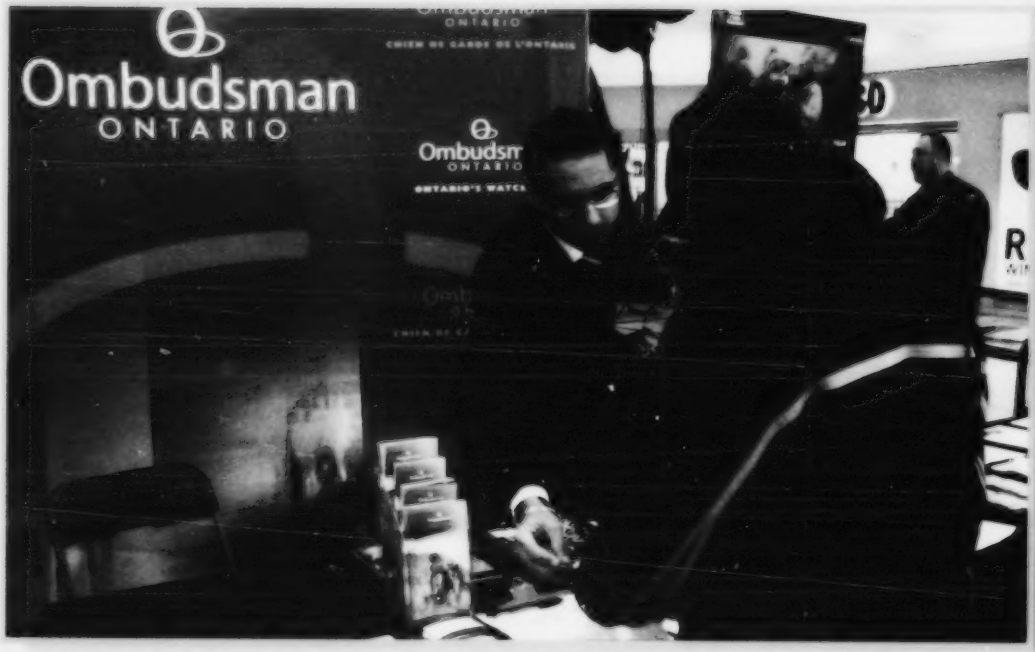
The Ombudsman's website was redesigned in June 2008, and new features have been added steadily, including RSS feeds, audio files, "Hot Topics," redesigned complaint forms, photo galleries and social media links. It also includes archives of all reports, speeches and press releases, as well as basic information on the Office's services.

To keep a growing audience informed of our Office's activities, a bi-monthly "e-newsletter" – *The Watchdog* – was launched in June 2008. As of March 31, 2009, the newsletter had more than **400** subscribers and each issue was distributed to more than **2,500** readers.

The Ombudsman also established a presence on social media sites **Facebook** and **Twitter**, where members of the public can interact directly with the Office and the Ombudsman and discuss topics of interest to them. At the time this report was written, the Ontario Ombudsman Page on Facebook had **327** "fans" and Ont_Ombudsman had **850** followers on Twitter. The Ombudsman personally maintains the Twitter account, sending and responding to a wide variety of messages on a daily basis. The Office is actively pursuing more ways to use social media tools to communicate with the public, media and stakeholders and is a strong supporter of online "open government" efforts.

Outreach

The Ombudsman made several speeches in the past year, including at the law faculties of the University of Western Ontario in London and the University of Windsor. Other senior Ombudsman staff also spoke at events sponsored by the Ontario Bar Association and regional municipal conferences. In addition, Ombudsman staff represented the Office at community events. As in previous years, delegations from overseas as well as other oversight agencies across Canada and the U.S. visited the Office to learn about our operations, including from Ethiopia, the U.K. and the Cayman Islands.



FEBRUARY 19, 2009: Ombudsman staff represented the Office at the City of Toronto's Law Day at Yorkgate Mall, one of several outreach events throughout the year.

JANUARY 14, 2009: Ombudsman André Marin speaks about the need for strong civilian oversight of police at a public forum in Winnipeg organized by the Manitoba Southern Chiefs' Organization.

APRIL 27, 2009: Tom Marshall Q.C., left, presents Ombudsman André Marin with the Ontario Bar Association's 2009 Tom Marshall Award of Excellence, honouring Mr. Marin's outstanding achievements in the practice of public sector law in Ontario.

Consultation and Training

For the second straight year, the Special Ombudsman Response Team (SORT) conducted a training course for ombudsmen and investigators, entitled "Sharpening Your Teeth – Advanced Investigative Training for Administrative Watchdogs." The course, conducted on a complete cost-recovery basis and financially supported by the International Ombudsman Institute, drew 54 senior participants from Scotland, Ireland, the Netherlands, the U.S., Bermuda, Gibraltar, Antigua and Barbuda, as well as the offices of Canada's Veteran's Ombudsman, Métis Ombudsman, Human Rights Commission and oversight agencies from several provinces. Among the international trainees were representatives from the U.S. Department of Homeland Security and the U.K. Parliamentary and Health Service Ombudsman. "Non-ombudsman" investigative agencies also attended, including the Law Society of Upper Canada, the Financial Services Commission of Ontario, the Office of the Fire Marshal, NavCan and the Ontario Lottery and Gaming Corporation.

The course is unique in that it focuses on systemic investigations, particularly those that have an administrative fairness component. One participant described it as **"one of, if not the, top training seminars of its kind in the world."** Another said: **"The experience of the Ontario Ombudsman's office as well as the systematic approach to systemic investigations will add significant value to our local operations."**

SEPTEMBER 25, 2008: Ombudsman André Marin meets with Ann Abraham, the U.K.'s Parliamentary and Health Service Ombudsman, in Toronto.

SORT has also been invited to provide a customized version of the training course for oversight offices across the world. In 2008-2009, the training was delivered in Hong Kong, South Africa, Bermuda, the U.S., Northern Ireland and Trinidad and Tobago, on a full-cost recovery basis. The Public Protector of South Africa wrote to the Canadian High Commission in Pretoria to express appreciation for this training:

> The training that Ontario Ombudsman has provided over the years, both at their courses in Toronto and in many countries around the world, has garnered the reputation of being the very best available worldwide within the Ombudsman and oversight community.
>
> **The training that Mr. Marin and his team provide is exactly what ombudsmen require in order to improve their effectiveness in strengthening government accountability and transparency.**
>
> *– Adv. Mabedle Lawrence Mushwana, Public Protector of South Africa*

MARCH 2009: Ombudsman André Marin made several speeches this year about his office's role and investigations, including to law students at the University of Windsor (left) and the University of Western Ontario in London, Ont. (right).

SEPTEMBER 24, 2008: Michelle DiEmanuele, former Ontario associate secretary of cabinet, speaks to "Sharpening Your Teeth" attendees about how Ombudsman reports can be a blueprint for government reform.

Special Ombudsman Response Team (SORT)

The Special Ombudsman Response Team was created to tackle the Ombudsman's major high-profile and systemic investigations. These investigations generally involve probing the root causes of a complaint – or a group of complaints – to resolve significant underlying issues and prevent similar issues from arising in the future.

SORT investigations are methodically planned and executed by a team of investigators according to strict timelines. They can involve interviewing hundreds of witnesses and reviewing thousands of pages of documents, as well as examining government policies and practices in other jurisdictions. SORT investigations usually result in the Ombudsman publishing a report and making recommendations that have a high public interest component. The vast majority of recommendations stemming from SORT investigations have been accepted and implemented by the government, resulting in real systemic improvements for Ontarians.

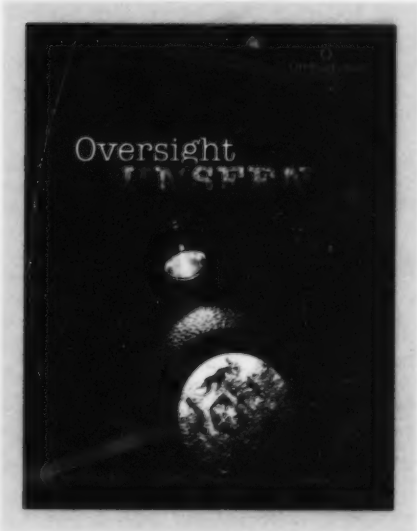
Since the team's creation in 2005, SORT investigations have included many issues with a significant human impact and broad public policy influence, such as property tax assessment, medical screening of newborns, compensation for crime victims, security of the lottery system, the accessibility of Positron Emission Tomography (PET) scans, and the oversight and enforcement of quality standards in long-term care homes.

Once a report is issued and recommendations accepted, SORT monitors their implementation to ensure that agreed-upon results are achieved.

The methods pioneered by SORT in investigating systemic issues are being adopted by administrative investigative agencies on a global basis, as well as elsewhere in Ontario and across Canada. "Sharpening Your Teeth" – its unique training course on advanced techniques for administrative investigators – has been a resounding success, with sessions in December 2007 and September 2008 filled to capacity. To date, more than 100 ombudsmen and investigators from across Canada and around the world have attended the course. A third session of the course is planned for November 2009 and a waiting list of participants is already in the works.

SORT Investigations Completed in 2008-2009

Oversight Unseen – Special Investigations Unit



On September 30, 2008, the Ombudsman released *Oversight Unseen*, his report on his investigation into the operational effectiveness and independence of Ontario's Special Investigations Unit (SIU), the civilian agency that investigates cases of serious injury or deaths of civilians involving police officers.

The Ombudsman launched the investigation in June 2007 after receiving complaints from a number of people with family members who had been killed or injured by police. The complaints included allegations that SIU investigations lacked rigour and that the SIU was biased toward police. There were also complaints from lawyers that the SIU was not exerting its statutory authority to require police co-operation in its investigations.

The investigation was SORT's most complex probe completed to date. It revealed that the SIU, far from being the world-class watchdog it had claimed to be, was

SEPTEMBER 30, 2008: The Ombudsman holds a news conference to release his report on the SIU, *Oversight Unseen*.

functioning more like a toothless tiger. The Ombudsman noted that its mandate lacked clarity and it needed its own constituting legislation. He also found a lack of independence in the relationship between the SIU and the Ministry of the Attorney General, with the SIU routinely having to seek the Ministry's permission in dealing with the most minor administrative matters.

The Ombudsman also identified problems with the administration of the SIU and its investigative practices that had directly contributed to a lack of public and stakeholder confidence in its investigations. Police services often failed to notify the SIU of incidents in a timely fashion as required, yet the SIU failed to take action to address this problem. Even when notified quickly, the SIU often failed to respond immediately. It also routinely let witness officers leave the scene of an incident and tolerated long delays before interviewing them.

Overall, the Ombudsman found the SIU had embraced a culture of compromise and conciliation toward the police. Most of its investigators and all managers (except the director) were former police officers, and there was disturbing evidence of tolerance of investigators wearing police accoutrements, such as rings and lapel pins. The SIU also lacked transparency, keeping a deliberately low profile and rarely releasing reports on its investigations to the public.

The Ombudsman made 46 recommendations, including that the government make legislative changes to clarify the SIU's mandate and enhance its credibility and to make failure by police to co-operate with an SIU investigation an offence.

Among his recommendations to the SIU were that it respond quickly and forcefully when police services fail to comply with their statutory requirements and that it respond to incidents in sufficient strength to ensure the integrity of investigations. He also called on the SIU to increase civilian representation in its management ranks.

Both the SIU and Ministry agreed to report back to the Ombudsman at six-month intervals on their progress in implementing his recommendations. The first reports were received from the SIU and Ministry of the Attorney General on March 31, 2009. The SIU stated that it had made significant progress so far. At the time this report was written, SORT investigators were reviewing and verifying both responses.

> "Our government remains committed to ensuring effective and independent oversight of police in Ontario. Your examination of the operation and practices of the SIU will greatly assist our government in improving the police oversight system – and we look forward to working with you as we make progress in implementing your recommendations."
>
> *– Premier Dalton McGuinty, letter to Ombudsman, October 22, 2008*

Positron Emission Tomography (PET) Scans

In September 2007, after receiving complaints from doctors and patients, the Ombudsman launched an investigation into the Ministry of Health and Long-Term Care's evaluation of the use of Positron Emission Tomography scans (commonly known as PET scans) in Ontario. The investigation focused on whether the Ministry's evaluation process was reasonable and whether patients have had fair access to PET scans through clinical trials.

A PET scan is a diagnostic tool used for patients with cancer, cardiac problems and other diseases. For the past seven years, the Ministry of Health and Long-Term Care has evaluated the usage of PET scans through a number of clinical trials for specific indications, while other provinces have gone forward and listed them as an insured service. Ontario's approach has been more cautious, preferring to wait for definitive clinical evidence of the utility of the technology.

It was initially expected that the clinical evaluations would take about two years, after which the Ministry would decide whether or not to cover PET scans through the Ontario Health Insurance Plan (OHIP) for specific indications. But things did not turn out as planned. Seven years since the process started, only two of the five clinical studies have closed.

The Ombudsman received more than **45** complaints and submissions from patients, family members, physicians and other stakeholders regarding the evaluation of PET technology in Ontario and delays in listing PET scans as an insured service under OHIP.

During the investigation, SORT investigators met with senior Ministry officials and spoke with 49 physicians, including current and former members of the PET Steering Committee. They interviewed patients, patients' relatives and numerous other stakeholders, including representatives from the medical device industry, and reviewed the accessibility of PET scans in other provinces.

The investigative process was concluded in the fall of 2008 and the Ombudsman provided the Deputy Minister of Health and Long-Term Care with his preliminary findings and conclusions in December 2008 to allow the Ministry a chance to respond – as is required under the *Ombudsman Act*.

At the time this report was written, discussions with the Ministry were ongoing to determine whether the issues identified during the investigation can be resolved.

Coroner's Inquest Delays

In March 2008, the Ombudsman commenced an investigation into allegations of multi-year delays in the scheduling of mandatory inquests, which are required under provisions of the *Coroner's Act* whenever a person dies while being detained in a correctional facility, in the custody of the police, or while working at a construction site or mine.

The Office of the Chief Coroner of Ontario confirmed to SORT investigators that it could take 2-5 years or even longer for a mandatory inquest to be held. It cited a number of factors that contributed to these delays, including the time required to produce post-mortem reports, the need for other investigations such

as those conducted by the Ministry of Labour or the Special Investigations Unit to be concluded before an inquest can begin, and the availability of police officers and counsel from the Ministry of the Attorney General to assist in planning and carrying out inquests. The Office of the Chief Coroner acknowledged that steps should be taken to reduce the delays and committed to actively working to do so.

In October 2008, amendments to the *Coroner's Act* were tabled, contained in Bill 115, that would ameliorate delays by reducing the number of cases where inquests are mandatory. Bill 115, which was ordered for third reading on April 20, 2009, proposes to eliminate the blanket requirement that an inquest must be held into all deaths in correctional institutions, and instead clarifies certain circumstances where an inquest would be mandatory. Inquests would no longer be mandatory, for example, whenever an inmate dies of natural causes.

The Ombudsman was also advised that the Ontario Provincial Police had taken some measures to improve the timeliness of its members' work related to coroner's investigations and inquests, including assigning additional resources to the team tasked with preparing inquests in the Greater Toronto Area. Scheduling of several inquests was accelerated, including in three cases that had been the subject of complaints to the Ombudsman.

In light of the Chief Coroner of Ontario's commitment to dealing with these delays, the Ombudsman agreed to suspend his investigation and monitor any progress made, requesting that the Chief Coroner provide him with an update in September 2009.

Cambrian College

In May 2008, the Ombudsman began to receive complaints from former students of the Health Information Management (HIM) program at Cambrian College, a college of applied arts and technology in Sudbury. A total of 13 former students complained that the program had failed to qualify them for jobs in the field for which they had spent two years studying.

The students complained that the college had promised a diploma from its HIM program would lead to high-paying jobs in the growing health records sector. Cambrian's promotional material referred to the course as being based on the requirements of the Canadian Health Information Management Association (CHIMA), which controls entry into the profession through a national certification examination. However, Cambrian had not obtained recognition from CHIMA, leaving two classes of graduates unable to write the professional certification exam. Several complained that they discovered after graduation that without CHIMA certification, hospitals did not consider them employable as health information management professionals.

The Ombudsman launched an investigation in the fall of 2008 into Cambrian's administration of the HIM program and the Ministry's oversight of the college. SORT investigators interviewed former students, Cambrian administrators and instructors, CHIMA executives and health records professionals, as well as HIM instructors at other Ontario colleges and senior officials at the Ministry of Training, Colleges and Universities.

At the time this report was written, the Ombudsman had completed his investigation and was in the process of compiling his final report.

Bestech Academy

In December 2008, media reports told the story of a student who lost $2,580 in tuition due to the sudden closure of Bestech Academy, an unregistered private career college where he had been studying to be an oil and gas burner technician. He and other displaced students were the unfortunate casualties of a problem that had been nearly two years in the making. Bestech Academy had been offering vocational courses all this time, even though it was not registered as a private career college with the Ministry of Training Colleges and Universities (MTCU), as required under the *Private Career Colleges Act, 2005*. The closure of Bestech left students scrambling, and several tried to track down the owner of the college for answers. To their surprise, they learned she was working for the MTCU, the same ministry that had ordered the school to close.

On January 8, 2009, the Ombudsman announced an investigation into the Ministry of Training, Colleges and Universities' oversight of Bestech Academy. The investigation included an examination of the Ministry's enforcement of provisions of the *Private Career Colleges Act* and allegations of conflict of interest with respect to Bestech's president, who also served as a Ministry employee. The investigation also looked at the Ministry's response to complaints by students about tuition fees they had lost to Bestech.

The Ombudsman received more than **30** complaints from students, instructors, investors and other interested parties. Instructors complained about not getting paid and being asked to make substantial financial investments in the school. Students complained that the quality of instruction and course materials was poor, and some were even offered positions as instructors immediately after completing courses themselves, despite having no work experience.

SORT investigators interviewed Ministry staff, including the Superintendent of Private Career Colleges, as well as Bestech's owner and former students and instructors. Some 16 binders of documents provided by the Ministry were also reviewed, as well as additional materials from regional ministry service delivery branches. Investigators also contacted other jurisdictions in Canada and the U.S. to examine how they oversee private career colleges.

This investigation has been completed; at the time this report was written, the Ombudsman was in the process of finalizing his report.

Ongoing SORT Investigations

Long-Term Care

On July 16, 2008, the Ombudsman announced a systemic investigation into the Ministry of Health and Long-Term Care's oversight of long-term care homes. The investigation is focused on two issues – the effectiveness of the Ministry's monitoring of the facilities to ensure compliance with statutory requirements and policy standards, and whether the Ministry standards are unrealistic, trivial or onerous to the extent that they detract from effective compliance monitoring and patient care.

The Premier welcomed the Ombudsman's investigation. In the *Toronto Star* the next day, he was quoted as saying:

> **"We've made some real progress when it comes to investing in long-term care ... but, you know what, progress is a little bit slower than we would hope for.... If Mr. Marin can go in there and turn something up for us and give us some good advice, as he's done in so many other areas in the past, I would welcome that."**

The investigation was prompted by more than **100** complaints to the Ombudsman's Office about long-term care facilities since the spring of 2008, including about 50 complaints received in the wake of media reports in July 2008 about nursing homes failing to meet government standards across the province.

Since the investigation was announced, more than **400** complaints and submissions have been received from long-term care residents and workers, family members of residents, advocates, health professionals, professional associations, unions and other stakeholders. Of these complaints, about 150 specifically relate to the ministry's Performance Improvement and Compliance Branch and its Compliance Management Program, which conducts inspections of long-term care homes and is intended to safeguard the rights of residents by ensuring that operators comply with legislation, regulation, policies, standards and service agreements.

> "There is no doubt, with an aging population and some of the horror stories and allegations you hear, the public needs to have confidence that these places are working properly and that the checks and balances that are there are actually doing their job .... These are allegations that need to be assessed."
>
> "These are very serious allegations and they resonate with the kind of complaints that we've been hearing from people .... We've heard allegations that these people are condemned to live a life of neglect and humiliation ...As shocking as they are, they're unfortunately not all that rare."
>
> *– Ombudsman Andre Marin, as quoted by The Canadian Press prior to announcing his long-term care investigation, July 3, 2008*

Many people expressed dissatisfaction with the way the Ministry responds to complaints about the treatment of long-term care residents – for example, that no information is provided to them and Ministry investigations and inspections are not sufficiently thorough. Others alleged that relationships between Ministry investigators and long-term care facility administrators impaired the objectivity of the investigation

and inspection process. Complainants also felt the standards compliance process is overly bureaucratic and actually impedes the provision of care to residents.

SORT's field investigation was completed at the end of December 2008 and a preliminary report was being compiled at the time this report was written. Due to the large volume of evidence and the scope of the investigation, the Ombudsman's final report is not expected to be released until late summer 2009.

Local Health Integration Network – Hamilton Niagara Haldimand Brant

On March 24, 2009, the Ombudsman announced his investigation into the decision-making process of the Hamilton Niagara Haldimand Brant Local Health Integration Network (HNHB LHIN), including its approach to its mandate of "community engagement" when it deals with proposals for the restructuring of health services.

The HNHB LHIN is one of 14 Local Health Integration Networks (LHINs) across Ontario. Established in 2006, LHINs are responsible for planning, funding and integrating the local health system, and disburse approximately $20 billion every year to local health service providers. The investigation was launched after the Ombudsman received **37** complaints from residents, community groups, heath care professionals, a municipal council and an MPP. Their complaints questioned the LHIN's process for considering input from stakeholders when looking at plans to restructure health services in two regions – the Hamilton Health Sciences Access to Best Care Plan and the Niagara Health System Hospital Improvement Plan. Complainants alleged that, in dealing with these plans, the LHIN failed to fulfill its mandate for "community engagement" through insufficient consultation with the public and key stakeholders and a general lack of transparency in its decision-making process.

The Ombudsman's investigation is focused on how the LHIN deals with proposals for the restructuring of health services, and its approach to its mandate for community engagement. It will not look at the merits of the proposals themselves, as the Ombudsman does not have jurisdiction over hospitals or local health services.

Since the investigation was announced, more than **60** further complaints and submissions have been received, including from a second municipal council. The investigation is expected to be completed in the summer of 2009.

Ongoing SORT Case Assessments

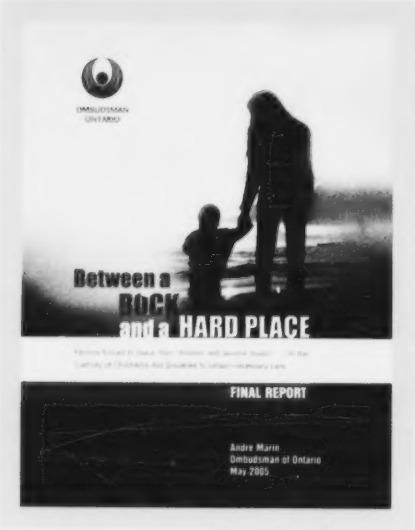
Employment Practices Branch

At the time this report was written, SORT was assessing complaints about delays in reviewing and investigating claims at the Ministry of Labour's Employment Practices Branch (EPB), to determine whether a systemic investigation may be warranted. The Ombudsman's Office received 42 complaints and inquiries about the EPB in 2008-2008, many from people alleging that their cases had been in the EPB system for 6-12 months with no investigator assigned.

Although the Ministry has reported to the Ombudsman that it received additional funds in 2007 and 2008 to deal with increased volume, concerns exist that the branch's overall backlog continues to grow. It is also anticipated that the branch, whose mandate includes investigating complaints about unpaid wages and severance pay, will see even more complaints in the present economic climate.

Updates on Previous SORT Investigations

Between a Rock and a Hard Place – Special-Needs Children



In his 2005 report, *Between a Rock and Hard Place*, the Ombudsman found that as many as 150 families had been forced to surrender their parental rights to children's aid societies (CASs) in order to get their severely disabled children the residential care they required. He found that the Ministry of Children and Youth Services (MCYS) had failed these families in a manner that was "unjust, oppressive and wrong" and recommended the Ministry immediately ensure custody rights were restored and funding was provided for residential placements outside of the child welfare system.

In response to the Ombudsman's investigation, the Ministry announced an additional $10 million to assist children with severe needs in 2005, another $10 million in 2006, and $4 million was committed to Children's Treatment Centres in 2007. Some **65** children were also returned to the care and custody of their parents. Two of the Ombudsman's recommendations – that the Ministry remove its moratorium on special-needs agreements and that the government consider re-legislating the power to make special-needs agreements so that they are mandatory and administered outside of child protection matters – were not implemented. However, as an alternative, the Ministry committed to making special-needs services more accessible, better co-ordinated and centred on the needs of the children and their families.

In 2008, the Ombudsman's Office once again began to receive complaints from families of children with severe disabilities, including some who had already relinquished the care of their children to a CAS in order to obtain a residential placement. In other cases, the families were in crisis and struggling to cope with the level of resources provided, having been told that there was no more funding available for the remainder of the fiscal year and no guarantees that it would be available in future, but they would be placed on a waiting list. In desperation, many began the process of giving up custody of their children in order to obtain the services they required. As of March 31, 2009, the Ombudsman had received **24** such complaints. Ombudsman staff are closely reviewing them and, where warranted, working directly with senior Ministry officials to attempt to ensure that appropriate treatment and placements are secured for the children without parents having to give up custody rights.

In one case, the parents of a nine-month-old baby who is blind, has cerebral palsy and is severely developmentally disabled were forced to sign a temporary care agreement with a CAS in order to place their daughter in a facility where she will receive high-quality, 24-hour care. They had attempted to care for her at home but when they realized she required full-time residential care, their local service co-ordination agency turned them down, saying there were budgetary constraints

and waiting lists. They felt they had no option but to turn to the CAS. It was not until this family's case received considerable media attention and the Ombudsman's Office became involved that the MCYS intervened to secure funding for the child's residential placement and care and the parents' full custody rights were restored.

> "If indeed this is happening again, then it is one of the most morally repugnant things that government has done."
> – *Ombudsman André Marin, as quoted in the* Ottawa Citizen, *February 7, 2009*

In another case, the parents of three special-needs children, including an eight-year-old boy with autism and attention-deficit-hyperactivity disorder, requested a residential placement for him because they felt they could no longer cope – at home, the boy had to be in a bare room with the bed bolted to the floor and locks on the door so he could not injure himself or others. He was placed on a priority list for placement, but they were told there was no money to fund his care even if a space became available. Feeling they had nowhere else to turn, the parents were on the verge of giving up custody rights to the CAS. But once the Ombudsman's Office brought the case to the attention of senior MCYS staff, a suitable residential placement with the requisite funding was procured within a few days.

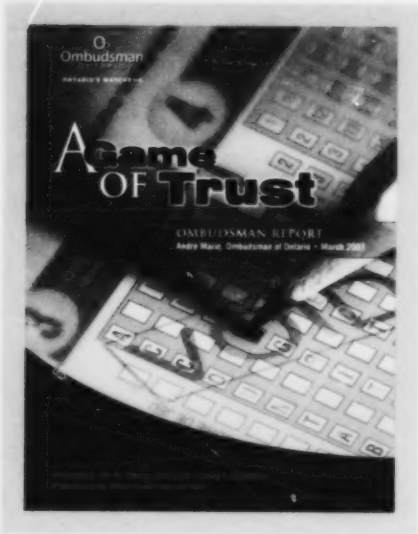
In yet another case, the parents of twin developmentally delayed boys went to the CAS in the hope of obtaining residential treatment for one of their sons. They had previously seen the other boy improve significantly under residential care, but when they attempted to obtain a placement for the second son, they were told by their local service co-ordination agency that there was no funding available. The parents feared that the child was becoming a danger to himself and others and that his increasingly volatile behaviour was having a negative impact on his twin. They were preparing to sign a temporary care agreement with the CAS until the Ombudsman's Office raised the case with senior MCYS staff so that funding and arrangements for a residential placement could be secured.

> "We implore this government to heed the words of [André] Marin and solve the deplorable situation that forces parents of disabled children to, as he says, 'act out of desperation.' "
> – Windsor Star *editorial, February 11, 2009*

In response to this surge in complaints, the Ombudsman met with the Minister of Children and Youth Services, who confirmed that the Ministry remained committed to ensuring adequate resources for the residential placement of special-needs children – and to the principle that no family should have to surrender custody rights to the CAS in order to obtain a residential placement. The Ombudsman expressed concern, however, that an "early warning system" was needed and that unless the Ministry implemented improved measures to identify serious cases and to work more closely with local service co-ordination agencies, the trend of parents having to turn to CAS authorities would continue. It was also noted that better monitoring mechanisms were required to improve the Ministry's awareness of waiting lists and budgetary constraints at the local level.

Senior Ombudsman staff continue to work closely with Ministry officials to address individual complaints and to identify means of resolving the broader systemic problems identified by the Ombudsman. The Ombudsman is seeking regular updates from the Ministry on its progress and monitoring trends in complaints to determine if a systemic investigation may be necessary in future.

A Game of Trust – Ontario Lottery and Gaming Corporation



The Ombudsman's March 2007 report *A Game of Trust* resulted in sweeping changes to the provincial lottery system to protect the public from theft and fraud. At that time, the Ombudsman noted that at least $100 million in prizes had been paid out to so-called "insiders" (i.e., lottery ticket retailers and staff of the Ontario Lottery and Gaming Corporation, or OLG) – some of it to "fraudsters." He estimated that the real number was probably much higher, but the sparse records kept by the OLG made it impossible to determine the exact rate of "insider" play and therefore the extent of dishonest behaviour by ticket-sellers.

The government and OLG have implemented the Ombudsman's recommendations, including regulating lotteries under the Alcohol and Gaming Commission, registering retailers, requiring players to sign their tickets, and conducting background checks and integrity tests on "insiders." In its March 2008 report to the Ombudsman, the OLG declared its commitment to fairness and integrity, as well as to a corporate culture shift, emphasizing public service rather than profit. The Ombudsman noted that he was pleased with the OLG's response and the extensive measures taken to better protect the public.

As a follow-up to the Ombudsman's investigation, the OLG engaged Deloitte & Touche to do a more detailed analysis of past "insider wins" dating back to 1995. The troubling results of Deloitte's $750,000 review were announced in February 2009: It found the rate of "insider wins" was 3.4% of total winnings – **twice** the OLG's original estimate of 1.7%. Insider wins over the past 13 years totalled **$198 million** – almost double the OLG's initial estimate of $100 million.

The OLG said the Deloitte audit also identified six types of "atypical behaviours" engaged in by retailers and/or employees "where the potential for fraudulent activity may have taken place," including cashing customers' tickets for a lower amount than the winning value, and switching players' tickets with known "losing" tickets, then claiming prizes for themselves. Because of measures introduced in the wake of the Ombudsman's report – including making players sign their tickets and introducing ticket-checking machines – Deloitte noted that five of these six "behaviours" had decreased. However, the report made it clear that retailers were winning vast sums, with little evidence to support that fraud was not a factor.

In response to the Deloitte audit, the Ombudsman expressed his concerns about the troubling extent of "insider wins," particularly in light of all the effort and public money that had been expended by OLG so far to end fraud. Noting that the OLG and the vast majority of government lotteries around the world do not prevent "insiders" from playing, he gave the OLG **six months** (until August 2009) to establish that it has lottery fraud under control before determining whether any further follow-up or recommendations are necessary. If it cannot do so, he said he would consider recommending that OLG insiders – i.e., retailers, employees and their families – be banned from playing its games.

"If insiders can't control their itchy fingers that demonstrate they're not responsible lottery players, then it's not worth the tens of millions of dollars to police them."

– Ombudsman Andre Marin at press conference following release of OLG audit, February 5, 2009

"The Ombudsman has played a critical role in initiating the many needed changes at OLG. His ongoing review of our progress provides a valuable milestone in our aligned vision for a better OLG."

– OLG CEO Kelly McDougald, responding to Ombudsman, February 6, 2009

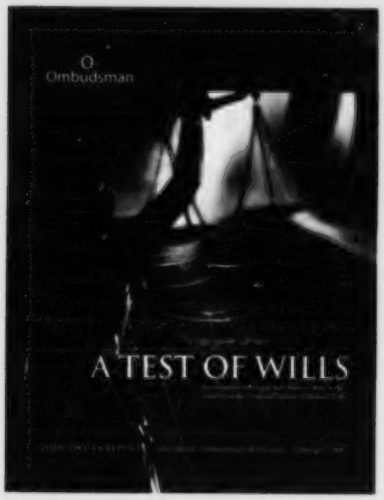
OLG CEO Kelly McDougald advised the Ombudsman of the corporation's full co-operation with this request and also announced that as of April 1, 2009, all OLG employees and board members would be banned from playing lotteries.

The Ombudsman's lottery investigation continues to receive attention across Canada and around the world, and similar issues continue to arise with other government lotteries. Earlier reviews by the B.C. Ombudsman and the Atlantic Lottery Corporation raised the same concerns about insider wins in those regions in 2007, as did media reports about the Western Canadian Lottery Corporation in early 2009. In the U.S., the Iowa Ombudsman investigated that state's lottery and found insider win problems very similar to those in Ontario. Lottery retailers have been caught cheating customers in Minnesota, New York, New Jersey and California, and the new Arkansas lottery is making retailer fraud a focus of its new security operation, according to news reports.

California State Lottery officials have consulted with SORT about the Ontario experience. Noting that they now conduct hundreds of "undercover sting" operations per year to test retailers' honesty – a test that 18% of them fail – Bill Hertoghe, director of security and enforcement of the California State Lottery, told the Ombudsman's Office that the Ontario investigation served as a wakeup call to government lotteries everywhere. He said: **"You deserve full credit for bringing this issue out in the open. Some lottery agencies have had their head in the sand. Ontario comes forward – now everyone is paying attention."**

FEBRUARY 5, 2009: The Ombudsman responds to the Ontario Lottery and Gaming Corporation's release of an audit showing lottery "insiders" won nearly $200 million in the past 13 years.

A Test of Wills – Legal Aid Ontario



In February 2008, the Ombudsman reported on his investigation into how Richard Wills, a self-described millionaire who was convicted of murdering his longtime lover, managed to get the province to pay his $1.1-million legal bill.

The investigation found that Mr. Wills deliberately impoverished himself by divesting his assets to family members and then demanded the government pay for his defence. Two court orders were made requiring the Ministry of the Attorney General (MAG) to cover Mr. Wills' defence costs. Since the Ministry was also responsible for the prosecution, it relied on Legal Aid Ontario (LAO) to vet the defence lawyers' bills. The Ombudsman found that although it assured MAG that it was vetting the bills, LAO simply "checked the math," as one of its officials put it. LAO approved some $608,901 worth of bills from one lawyer alone before Mr. Wills fired him. He went through 11 lawyers in all, seven of them paid by the public purse.

In his report, *A Test of Wills*, the Ombudsman recommended that LAO create and enforce strict controls for such cases and that MAG attempt to recover the some of the money. He also recommended that the government introduce legislative changes to govern the administration of court orders for taxpayer-funded defences.

LAO took a number of constructive steps in response to these recommendations, including increasing senior management oversight of all cases costing more than $75,000 and reviewing its management of so-called "big cases." MAG launched civil proceedings to recover Mr. Wills' assets. However, the Ministry did not commit to legislative change to ensure there is a clear procedure for similar cases in future and a process to recover funds when it appears the legal aid system has been abused. Its position was that a new protocol with LAO and new processes would address these problems.

In October 2008, both MAG and LAO updated the Ombudsman on their progress. LAO detailed the processes now in place for the management of court-ordered publicly funded counsel. These include budget setting, management through regular oversight, supervisory review and scrutiny of legal accounts on a regular basis. LAO provided information about the number and types of cases, amounts recommended for payment and type of supervisory review that occurred. It also provided the results of its internal audit relating to the Wills case and the actions it had implemented as a result, including actively monitoring the continued viability of budgets throughout a given case. Additional initiatives were also detailed, including a corporate-wide program that outlines LAO's expectations of behaviours that conform to the values and ethics of a public sector organization, and reform of its Big Case Management program.

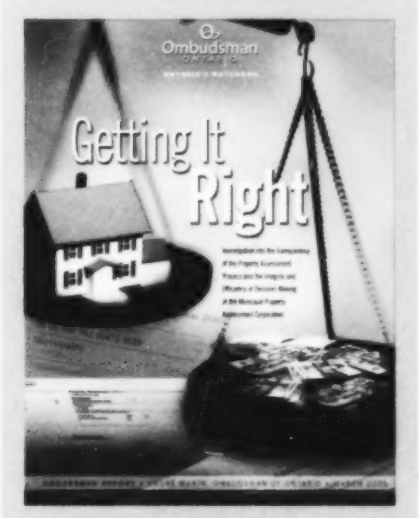
The Ministry advised the Ombudsman that legal actions to have Mr. Wills' legal bills assessed and to recover his assets were proceeding through the courts. It also reported that it and LAO continue to actively evaluate the effectiveness of the new protocol to ensure the careful and effective expenditure of public funds whenever a court orders publicly funded counsel. The Ministry advised that it would evaluate the need for new legislation based on the progress of the Wills litigation and the protocol with LAO.

On April 6, 2009, LAO provided a further update on efforts by the Protocol Case Unit (PCU), which manages cases involving court-appointed counsel to be paid from public funds. Beginning in January 2009, the PCU began tracking "outcome" indicators, including the number of "protocol cases" resolved without trial and the number of adjournments avoided as a result of LAO intervention to identify suitable counsel to act for unrepresented accused through court appointment.

Since October 2008, the PCU has included a staff lawyer dedicated to the review of Protocol Case accounts and a part-time legal accounts staff person has been added to prepare an analysis of accounts and to ensure that all necessary documentation is included by the lawyer submitting the account. LAO reported that it now has enhanced capacity to record and analyze trends in court-appointed lawyer matters and/or specific matters requiring action. It also outlined its plans to reform the Big Case Management program in the next fiscal year.

In May 2009, it was reported that the Ontario Superior Court rejected an attempt by one of Mr. Wills' defence lawyers to block the review of his bills, noting that the exceptional nature of the trial and defence tactics warranted a fee review. The other defence lawyer whose bills are under review has agreed to have his bills reviewed by an expert assessment officer.

Getting it Right – Municipal Property Assessment Corporation



Property assessments were mailed out across the province in fall 2008 for the first time since the release of the Ombudsman's report, *Getting it Right*. The Ombudsman's report, released in March 2006, criticized the practices and procedures of the Municipal Property Assessment Corporation (MPAC) as being unfair, secretive and "cutthroat." Shortly after the release of the report, the province froze assessments for two years to allow it and MPAC to implement the Ombudsman's 22 recommendations, including increasing access to MPAC information; improving the accuracy and consistency of property assessments; improving the fairness and integrity of the appeals process; and reversing the onus from the taxpayer to MPAC to prove the accuracy of its assessments in appeals to the Assessment Review Board.

All of the Ombudsman's recommendations have now been implemented, except one: The recommendation that property assessment notices be amended to describe not only the average municipal assessment increase or decrease, but also the average percentage change within the particular neighbourhood zone. MPAC advised the Ombudsman that it planned to implement this recommendation in mid-2009.

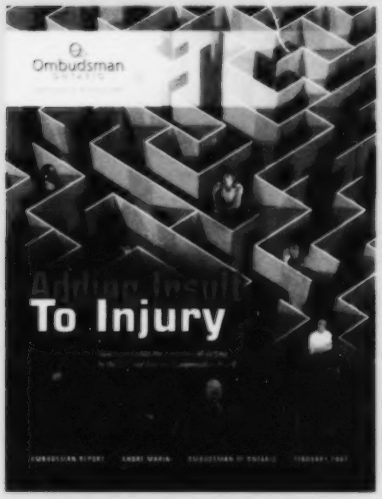
The Ombudsman has indicated that to date he is pleased with MPAC's implementation of his recommendations. The 2008 assessment notices provided property owners with much more information, including a history of previous reviews and appeals and an explanation in cases where a previous adjustment had not been carried forward. Property owners can now use an interactive website to find further details about their own property, basic information on 100 properties, detailed information on 24 properties and access to some 80 procedures. These and many other positive changes have resulted in a significant decrease in the volume of complaints about MPAC to the Ombudsman's Office – from **3,720** after the investigation was announced in October 2005 to **349** for the 2008/2009 fiscal year.

Senior Ombudsman staff meet on a quarterly basis with MPAC officials to ensure that MPAC continues to move in the right direction, and to address specific trends in complaints. In the latest assessment process, issues raised included MPAC being slow to respond to complaints and requests for reconsideration and technical issues in accessing the "About My Property" web portal (specifically a lack of compatibility with Mac computers) and comparable property assessment information. There have also been complaints that decisions in previous Assessment Review Board appeals were still not being carried forward to future years' assessments.

> "We respect the Ombudsman's work, we acted on his recommendations [on MPAC] and we believe that the municipal governments have the tools necessary to ensure an orderly transition."
>
> – *Jim Watson, Minister of Municipal Affairs and Housing,* Hansard, *October 15, 2008*

As in previous assessment years, general concerns have also been raised about the government's practice of assessing properties based on market value – most recently because many property values are now lower than they were at the time of the assessment, due to the economic downturn. As was initially noted in *Getting it Right*, the method of property valuation is beyond the purview of the Ombudsman's investigation, as it represents a broader public policy issue more appropriately determined by elected officials.

Adding Insult to Injury - Criminal Injuries Compensation Board



Since the February 2007 release of the Ombudsman's report *Adding Insult to Injury*, both the Criminal Injuries Compensation Board (CICB) and the Ministry of the Attorney General (MAG) have continued to implement the Ombudsman's recommendations to reduce backlogs and delays and to address concerns about the board's insensitive, overly rigid and bureaucratic processes.

Additional staff were hired, new adjudicators appointed and, in March 2008, **$100 million** in funding was allocated to the CICB. In June 2008, the board and MAG reported to the Ombudsman that two issues remained outstanding with regard to the Ombudsman's recommendations, including a pilot project with the Toronto Police Services on police questionnaires and the establishment of an advisory committee comprised of crime victims, their advocates and victim services professionals. These were to be reviewed in the wake of the report of the province's task force on the victim compensation system as a whole, chaired by the former chief justice, Hon. Roy McMurtry.

Mr. McMurtry's report, released in August 2008, included several recommendations to the government to improve victim services, including providing victims with a single point of access to supports and services, working with local community services, police and Crown attorneys to develop a protocol for informing victims about available services, and reporting annually to the public on provincially funded victim programs. The same month, the government announced the appointment of a new Chair of the CICB.

In March 2009, the board's new Chair reported to the Ombudsman on several new initiatives to improve the CICB's responsiveness to victims of violent crime, including setting a **30-day service standard** for board members to draft orders, allowing more cases to be decided through the speedier documentary hearings process, and establishing a working group with the Victim Quick Response Program (which covers emergency expenses in the aftermath of violent crime), to improve communications and the transfer of information between the related agencies and reduce timelines for interim assistance.

As of January 31, 2009, the CICB's caseload stood at 6,650, down from 8,290 in November 2007 and 9,640 in July 2006. Since the beginning of fiscal 2008-2009, it has received on average 334 cases per month – a 7% decrease from 2007-2008, but a 25% increase over 2006-2007. In the same period, it has completed an average of 288 cases, a 6% increase over 2007-2008 and a 57% increase over 2006-2007. The CICB estimated that nearly **5,000** claims would be processed to the hearing-ready stage by March 31 and more than **3,900** hearings would have been held in fiscal 2008-2009. The average processing time for claims has been reduced from an average of **three years** to an average of **two years** – still not ideal by any means, but certainly moving in the right direction.

The CICB also reported that further upgrades to its case management system would be completed in April 2009. In addition, it has re-initiated its pilot project with the Toronto Police Service to share police questionnaires electronically. The establishment of an advisory committee is still under consideration. While the CICB supports the concept of creating avenues for meaningful exchange with victims and other stakeholders, it wished to consider all options available. It expects to be in a better position to provide a final response to this recommendation by fall 2009.

Complaints to the Ombudsman about the CICB have continued to fall – from **172** in 2006-2007 to **73** last fiscal year – and to **54** this past year. Some of these complaints were about delays and poor customer service. Most were quickly resolved. The Ombudsman continues to monitor CICB's progress.

Collateral Damage – Mental Health Services for Soldiers' Children

The Ombudsman continues to monitor the implementation of his 2007 recommendations regarding the provision of mental health services for the children of soldiers based at Canadian Forces Base (CFB) Petawawa. In March of that year, a SORT investigation found the demand for psychological counselling had grown tenfold as a result of Canada's ongoing military mission in Afghanistan. Due to a lack of resources, children of military families were waiting up to six months for treatment at the local children's mental health provider, the Phoenix Centre for Children and Families. The investigation revealed a standoff between the federal and provincial governments, even though it was clearly a provincial responsibility to provide mental health care to the children of military members. The kids waiting for the care they so desperately needed were, in effect, collateral damage.

In response to the Ombudsman's recommendations, the provincial government created a $2-million contingency fund to provide children's mental health support to communities facing crisis or extraordinary circumstances and provided the Phoenix Centre with immediate funding. The Minister of National Defence also confirmed the federal government was open to further discussions with the province to ensure that the mental health needs of CFB Petawawa's children were met. The increased funding provided by both governments allowed the Phoenix Centre to hire more staff to meet the growing demand for services.

This collaborative funding by the provincial and federal governments has continued and appears to be working well. Ontario's Ministry of Children and Youth Services is monitoring the demand for services.

In December 2008, the Phoenix Centre reported it had experienced no reduction in need and with the death of three soldiers earlier that month, anticipated the referral rate would increase in the new year. Since then, several more soldiers from CFB Petawawa have been killed. The latest group of soldiers deployed to Afghanistan from Petawawa began returning in February 2009, with most arriving home in April. Another deployment from the base is expected later in 2009.

SORT continues to receive monthly updates from the Ministry of Children and Youth Services on the number of children on the waiting list. In February 2008, **89** military clients received services, while 13 waited for family/child treatment and one waited for group counselling. SORT investigators are in regular contact with the Phoenix Centre and military authorities and are closely monitoring developments.

Case Summaries

■ MINISTRY OF CHILDREN AND YOUTH SERVICES

Signed, Sealed, Undelivered

A woman complained to the Ombudsman about delays in finalizing the adoption of her daughter. The girl, now 19 months old, had been with her since the age of 10 weeks, and she had been unable to obtain her birth certificate or start the process to adopt a second child because of the delay. Her local Children's Aid Society told her they were waiting for a provincial office to return the necessary paperwork.

Ombudsman staff made inquiries and determined that the missing paperwork – a "Director's Consent to Adoption" – had been forwarded by the CAS to the regional office of the Ministry of Children and Youth Services nine months earlier. The forms had been signed and approved within a month, but were never returned. Once found, the papers were immediately sent on and the long-delayed adoption was made final.

■ MINISTRY OF COMMUNITY AND SOCIAL SERVICES

Family Responsibility Office

Back to Zero

A woman whose ex-husband had failed to pay her spousal support payments for 10 years complained to the Ombudsman about the Family Responsibility Office (FRO), which had been unable to find him, much less enforce his support obligations. She had been forced to collect more than $11,000 in social assistance, although her ex owed her more than $165,000.

In 2008, she contacted FRO staff to inform them that her ex was turning 65, in the hope that they might be able to locate him and garnish his income if he applied for Canada Pension benefits. She was stunned to learn that the FRO had closed her case as "impractical to enforce" – and there was no amount owing reflected in her file.

How late is late?

after

due on the date

A Near Wipeout

A single mother of three children complained to the Ombudsman's Office that the Family Responsibility Office (FRO) had wrongly wiped out a debt of more than $60,000 in child and spousal support owed to her by her ex-husband. He had obtained a new court order reducing his support payments due to a change in circumstances, but the FRO had also erased the amount he still owed her under the old court order.

FRO staff told her she was now owed only $5,400 and she would have to go to court to collect any more. She could not afford this, as she had already paid out a significant amount in legal fees and had even had to resort to collecting social assistance because she had not been paid support in the past.

The woman's MPP had tried to sort out the issue with the FRO without success. But after the Ombudsman's staff contacted them, FRO staff reviewed the new court order and agreed that the intent was not to erase the spousal debt accumulated under the old court order. They amended the arrears owing and agreed to take action to collect the entire **$66,921** owed to the woman and children, including $12,000 to be repaid to the government in return for social assistance she had been forced to collect.

Ontario Disability Support Program

Overpayment Overblown

A woman complained to the Ombudsman after fighting with Ontario Disability Support Program (ODSP) officials for six years over their calculation that they had overpaid her and she owed them more than $10,000. The woman disputed this amount, but the ODSP had continued to collect monthly payments from her on the debt, while denying her request for an internal review.

An Ombudsman staff member contacted ODSP staff and after a thorough review of the woman's file, they admitted their calculations were wrong – in fact, the overpayment had only been about $7,200 and the woman had already more than repaid it. **She was actually owed $580.** ODSP officials met with the woman and ensured she received a refund.

■ MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES

In the Nick of Time

An inmate in a provincial jail was appealing a court decision in his case. He had provided the necessary paperwork for his appeal to the jail's records clerk, but was told that the institution had sent the documents to the wrong court. He contacted the Ombudsman's Office out of fear that the deadline for his appeal was only one day away and he might miss it because of the jail's error.

An Ombudsman staff member contacted the Deputy Superintendent of the institution, who agreed to look into the matter immediately. The jail's records clerk discovered that the right court had in fact been contacted, but the wrong documents were sent. The clerk immediately contacted the court and arranged to forward the correct paperwork on the inmate's behalf – on time.

A Last Request

A 40-year-old man who was being held in a detention centre called the Ombudsman's Office for help after he was diagnosed with liver cancer and told he had only a few months to live. Because of his condition, he was being held in the jail's medical unit and was unable to attend any recreational or religious programs. He said he was severely depressed: "I am dying and I can't get the spiritual connection that I need."

The next day, as a result of an Ombudsman's staff member's inquiries, the institution's chaplain arranged for regular one-on-one sessions with the inmate, and assured he would have access to a Bible, other religious materials, and a social worker if needed. Medical staff at the jail were also alerted to monitor the inmate's depression.

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■ MINISTRY OF EDUCATION

A Positive Intervention

A 16-year-old student at a provincial school for the deaf who was gradually losing her eyesight due to a genetic condition complained to the Ombudsman that the school refused to provide her with the services of an "intervenor" – a professional trained to assist deaf-blind persons through various communication methods.

The student, who is legally blind and unable to see the blackboard or read large print, had the help of an educational assistant, but she and her family requested an intervenor to help her fully participate in the school's programs. The school and the Ministry of Education denied their request.

An Ombudsman investigator spoke with senior staff at the school and Ministry, who maintained that the student was receiving appropriate assistance – for instance, the school had arranged for her to learn Braille. It had also provided her with specialized computer equipment and software, but she was unable to use it because of her deteriorating eyesight. The investigator then spoke with the Director of the Ministry's Provincial Schools Branch about the policy on funding intervenors. The Director advised that the Branch had recently became more aware of the particular communication needs of deaf people with acquired blindness, and that **it had decided to hire intervenors to assist the complainant and several other deaf students with acquired blindness.**

■ MINISTRY OF ENERGY AND INFRASTRUCTURE

Changing the Rules

A man had a number of renovations done to his home in April 2008, including the installation of foam insulation in his basement. To help pay for the upgrades, he was counting on assistance from the Home Energy Audit and Retrofit Rebate Program, a joint program between the Ontario and federal governments to encourage more energy-efficient homes.

When the final audit of the renovations was done in July 2008, Ontario officials told him the foam insulation was no longer eligible for a grant, as of June 19. As a result, he was short **$1,000**, which he owed to the installer – who was threatening to turn the bill over to a collection agency.

Ombudsman staff contacted the Ministry of Energy and Infrastructure, which acknowledged it was unfair to deny the man the grant. They asked their federal counterparts to examine his file, and they determined that since his initial assessment for the renovations was done before June 19, he should have been eligible for the grant. As a result, he received both the federal and provincial rebates and the bill collectors were called off.

■ MINISTRY OF FINANCE

Blast From the Past

A man who had closed his business in 1998 was surprised to receive a tax bill from the Ministry of Finance nine years later – for more than $10,000 in unpaid sales taxes plus interest. He was told the bill was based on three separate tax assessments and notice of these had been mailed to him in 1997 and 1998 – however, he had never received them and the Ministry was unable to provide him with copies. The man filed a notice of objection with the Ministry, but it was rejected because an objection has to be filed within 180 days of the original assessment. The Ministry then placed liens on the man's car and home and garnished his wages.

When he complained to the Ombudsman, the man noted the Ministry had never explained how it arrived at its calculations, or why he had not received the 1997 bill. After 11 months of back-and-forth discussions with an Ombudsman investigator, Ministry staff acknowledged that the man had notified them of a change of address but they had failed to update their records, resulting in correspondence from 1998 being returned as undeliverable.

As a result, in February 2009, the Minister of Finance approved a "remission" in the man's favour of **$7,577**, representing interest that had accrued between the time the original tax assessments were issued and when he actually received notice of them, as well as the time it took for the Ministry to finally establish how it had calculated the amount of tax owed. He received his cheque in April 2009.

A Taxing Ordeal

A New Brunswick man was employed in Ontario on a contract in 2003. He purchased a new vehicle in July 2003, just prior to returning home, and paid Ontario retail sales tax of $1,529. In order to register and obtain licence plates for the vehicle in New Brunswick, he was also required to pay sales tax there. Due to financial circumstances, he delayed doing so until June 2004.

When he applied to Ontario's Ministry of Finance for a sales tax refund, on the basis that the vehicle had been taken out of Ontario permanently within 30 days of being purchased, the Ministry rejected the claim because the vehicle had not been registered in New Brunswick within 30 days – in fact, it had been almost a year.

After three years of trying to convince the Ministry that despite this delay, he was still eligible for a sales tax refund, the man complained to the Ombudsman. In response to Ombudsman staff inquiries, the Ministry reviewed the man's file and finally agreed to give him his **$1,529** refund.

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Blast From the Past

$7,577

A Taxing Ordeal

$1,529

■ MINISTRY OF GOVERNMENT SERVICES

Where Did You Come From?

A 55-year-old woman had been trying for eight years to obtain a birth certificate so she could apply for a passport and take a trip outside Canada with her husband. She was told that her birth had never been registered. The Registrar General's office repeatedly asked her for information to prove she had been born in Ontario.

The Ombudsman's Office contacted the Office of the Registrar General on the woman's behalf. Its staff maintained that there was insufficient proof of her claim that she had been born in a particular hospital, because they had a letter from the hospital indicating that it only kept medical records for 10 years. However, after Ombudsman staff asked the hospital's health records department to see if there was any record at all of the woman's birth, the search turned up a small index card that showed she had in fact been born there.

Thanks to the index card, the woman received her long-awaited birth certificate and was able to plan her trip. She noted that the "little guy" has so much trouble trying to resolve issues with the government that sometimes it takes the Ombudsman to come the rescue.

■ MINISTRY OF HEALTH AND LONG-TERM CARE

Ontario Health Insurance Program

Working Without a Safety Net

Nine former foreign students who were living and working in Ontario under the federal Post-Graduation Work Permit Program complained to the Ombudsman about being refused health coverage under the Ontario Health Insurance Plan (OHIP).

The Post-Graduation Work Permit Program is operated by Citizenship and Immigration Canada (CIC) and issues work permits to foreign graduates from participating Canadian post-secondary institutions to allow them to stay and work in Canada after graduation. In April 2008, CIC removed the requirement for program participants to have a job offer from a Canadian employer before obtaining a work permit. Instead, they were issued "open" work permits that did not list any specific employer's name or the participant's occupation.

This change conflicted with OHIP's eligibility regulations, which require a work permit that is valid for at least six months and specifically names an Ontario employer and the participant's occupation. The complainants expressed concern that without OHIP coverage they would have to incur out-of-pocket costs to get health care – and that in the case of a medical emergency, they would not be able to afford treatment.

Officials at the province's Ministry of Health and Long-Term Care initially told the Ombudsman's Office that they had not been forewarned about the federal changes, although they would work to amend the OHIP requirements. However, Ombudsman staff determined that CIC had in fact held consultations with provincial stakeholders in 2006, which included an email to Ontario's Ministry of Training, Colleges and Universities, asking for advice on any potential impact of the change to "open" work permits on access to provincial health care. The email was sent on to the Ontario Ministry of Citizenship and Immigration, and although both ministries discussed the CIC's potential changes, the issue of "open" work permits and their effect on eligibility for OHIP was never addressed.

Senior officials at both provincial ministries expressed regret that the issue hadn't been dealt with earlier. They assured the Ombudsman's Office that they had taken steps to prevent this happening again, including introducing more formal processes to respond to requests from other levels of government. They also had recently entered into a Memorandum of Understanding with each other to improve and clarify the co-ordination of shared initiatives.

On April 1, 2009, the Ministry of Health and Long-Term Care amended the OHIP eligibility regulations to allow holders of the new "open" work permits to be eligible for coverage if they are employed and working in Ontario for no less than six months.
The Ministry also agreed to speak individually with each of the nine complainants to explain the new regulation and inform them how to reinstate their OHIP coverage.

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Working Without a Safety Net

Nine former foreign students who were living and working in Ontario under the federal Post-Graduation Work Permit Program complained to the Ombudsman about being refused health coverage under the Ontario Health Insurance Plan (OHIP).

The Post-Graduation Work Permit Program is operated by Citizenship and Immigration Canada (CIC) and issues work permits to foreign graduates from participating Canadian post-secondary institutions to allow them to stay and work in Canada after graduation. In April 2008, CIC removed the requirement for program participants to have a job offer from a Canadian employer before obtaining a work permit. Instead, they were issued "open" work permits that did not list any specific employer's name or the participant's occupation.

This change conflicted with OHIP's eligibility regulations, which require a work permit that is valid for at least six months and specifically names an Ontario employer and the participant's occupation. The complainants expressed concern that without OHIP coverage they would have to incur out-of-pocket costs to get health care – and that in the case of a medical emergency, they would not be able to afford treatment.

Officials at the province's Ministry of Health and Long-Term Care initially told the Ombudsman's Office that they had not been forewarned about the federal changes, although they would work to amend the OHIP requirements. However, Ombudsman staff determined that CIC had in fact held consultations with provincial stakeholders in 2006, which included an email to Ontario's Ministry of Training, Colleges and Universities, asking for advice on any potential impact of the change to "open" work permits on access to provincial health care. The email was sent on to the Ontario Ministry of Citizenship and Immigration, and although both ministries discussed the CIC's potential changes, the issue of "open" work permits and their effect on eligibility for OHIP was never addressed.

Senior officials at both provincial ministries expressed regret that the issue hadn't been dealt with earlier. They assured the Ombudsman's Office that they had taken steps to prevent this happening again, including introducing more formal processes to respond to requests from other levels of government. They also had recently entered into a Memorandum of Understanding with each other to improve and clarify the co-ordination of shared initiatives.

On April 1, 2009, the Ministry of Health and Long-Term Care amended the OHIP eligibility regulations to allow holders of the new "open" work permits to be eligible for coverage if they are employed and working in Ontario for no less than six months.

The Ministry also agreed to speak individually with each of the nine complainants to explain the new regulation and inform them how to reinstate their OHIP coverage.

A Long Wait

A 70-year-old man had developed end-stage renal failure and was in need of a kidney transplant. He was told by his hospital that patients on the Ontario kidney transplant waiting list had to wait a minimum of 5-6 years for an organ. His doctor advised him that if he waited that long, he would be at an age and in a physical condition where he would not be able to undergo surgery. In mid-2002, he was put on a waiting list for transplant in Buffalo, New York, and his doctor applied to have the $40,000 cost covered under the Ontario Health Insurance Plan (OHIP) Out-of-Country program.

On January 16, 2006, a kidney became available and the man's transplant was performed in Buffalo. A week later, however, he received a letter from OHIP denying his application for coverage, stating in part that he had not established that his condition was so dire that he could not have waited for a kidney to become available in Ontario. The man appealed the decision to the Health Services Appeal and Review Board (HSARB).

The HSARB also denied him, relying in part on the opinion of an expert witness who was called by OHIP. The expert stated that based on the available statistics the man's wait time would have been 5.5 years, only 1.2 years longer than he waited to receive a transplant in Buffalo. Based on this information, the HSARB found the coverage of the U.S. operation would be unjustified.

The man complained to the Ombudsman that the Ministry's expert had provided incorrect information to the HSARB. An Ombudsman investigator found that the OHIP expert's transplant data included data from the Hospital for Sick Children, a pediatric facility that does not do adult transplants. Excluding that data, the average wait time for a kidney transplant for someone in the complainant's situation in Ontario would have been 6.4 years, not 5.5 years.

As a result of this new information, the OHIP expert clarified the opinion he had given and the HSARB agreed to reconsider the man's case.

Northern Health Travel Grant

Sense and Insensitivity

The parents of a disabled 17-year-old Sault Ste. Marie boy – two senior citizens with a limited income – applied for a Northern Health Travel Grant on their son's behalf, for reimbursement of $1,150 in expenses incurred in travelling to Toronto so he could have surgery. Their application was rejected twice because it was not signed by the youth – despite a letter from the family's doctor explaining that the boy's physical and mental disabilities made it impossible for him to sign. Staff at the program told the mother she would have to get a power of attorney to sign the application for her son, so she retained a lawyer to do so.

The Ombudsman's Office learned of the case through a media report and contacted the family and their lawyer to assist them. Staff at the Northern Health Travel Grant program responded that the letter from the doctor was in fact sufficient and the youth's application would be granted without need for a power of attorney.

When Ombudsman staff raised concerns about how the mother had been treated, the Ministry of Health and Long-Term Care agreed to send her a letter of apology and to reimburse her for $462 in legal costs. **The Ministry also agreed to improve its general instructions for travel grant applicants, and to introduce a policy for dealing with those who are unable to sign their forms.**

Room for An Exception

A Sault Ste. Marie woman gave birth to a three-pound baby girl, 11 weeks premature. The baby was taken to a hospital in London, Ont. for special care, but the mother was unable to go with her, as she herself had to remain in hospital. When she was released, she and her husband traveled to London to be with their daughter, who was in hospital for 2 ½ weeks.

The mother complained to the Ombudsman after the Northern Health Travel Grant program refused to reimburse her travel costs, because its policy requires that that the claimant must have accompanied the patient.

After Ombudsman staff contacted the program, its officials acknowledged the woman's exceptional circumstances and confirmed that her presence at her daughter's hospital was required. The mother received a reimbursement cheque for **$748**.

Ontario Drug Benefit Program

The Best Medicine

A diabetic woman who cannot tolerate synthetic insulin and can only use pork insulin complained to the Ombudsman that the Ontario Drug Benefit Program refused to pay for it. The insulin cost approximately $150 a month.

Although pork insulin is not listed in the Ontario Drug Benefit Plan Formulary, it is funded on a case-by-case basis through the Ministry of Health and Long-Term Care's Exceptional Access program. The woman and her physicians had been trying to get Ministry approval for funding for the pork insulin for over a year but had been turned down repeatedly.

The Ombudsman's office urged for the woman's doctor to explain to a Ministry official that since recent pork insulin has ceased she had been hospitalized on [illegible] due to severe reactions to synthetic insulin. The Ministry persisted in its position. However, soon after the Ombudsman commenced a formal investigation, Ministry staff advised that they had reviewed the woman's file again and approved coverage for her pork insulin needs for [illegible] one year, with the condition that [illegible] annually to confirm her continuing need for the drug. The woman was extremely happy and thanked Ombudsman staff for their help.

■ MINISTRY OF LABOUR

Deeply Conflicted

A man who lost his leg in a workplace accident complained to the Ombudsman that the Ministry of Labour's investigation was flawed because the inspector who conducted it had previously worked for the company where the incident occurred. An Ombudsman investigator determined the Ministry's investigator had in fact worked for the company in question for 24 years – in fact, he had only left the company 18 months before, and this investigation was his first for the Ministry.

The Ombudsman investigator's review also revealed a number of instances where Ministry policies and procedures appeared not to have been followed. The inspector had failed to view the site of the accident and did not request technical assistance from the Ministry or issue orders to address contraventions of the *Occupational Health and Safety Act*. He even told Ombudsman staff that he relied on information provided by the company because he had previously worked there and he knew and trusted its employees. None of these problems were identified by Ministry staff who reviewed the inspector's material.

The injured worker had also complained that he was never informed of the results of the investigation. The Ombudsman probe found that the Ministry did not have any written policy or procedures for keeping injured workers informed of their investigations.

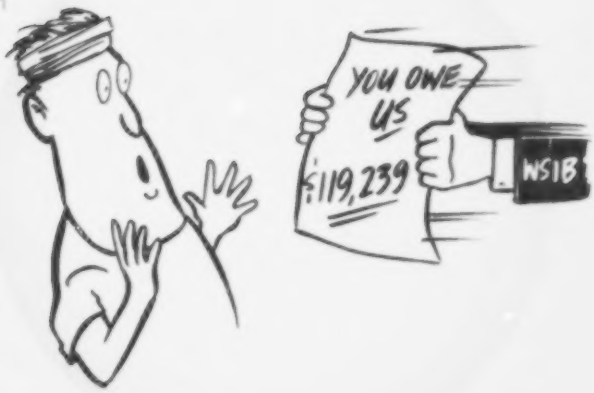
In response to the Ombudsman's review, the Ministry apologized to the injured man and agreed to a number of changes, **including improving its conflict of interest policy, adopting new procedures for quality assurance in investigations and developing policy and procedures for communicating with injured workers about the progress and results of Ministry investigations.**

Workplace Safety and Insurance Board

Who Owes Whom?

After winning an appeal of his case before the Workplace Safety and Insurance Board (WSIB), a man who had been injured at work expected to receive a substantial sum of money, representing several years' worth of retroactive worker's compensation payments. Weeks later, he was astonished to receive a letter from the WSIB asking him how he planned to repay an "overpayment" of **$119,239** that he owed to them.

An Ombudsman staff member contacted a caseworker at WSIB, who determined that an administrative error had been made during the calculation of the man's retroactive payment award – and it had been entered as money he owed, rather than money owed to him. The error was corrected immediately and the man received the funds he expected. He thanked the Ombudsman, saying he "can now sleep at night."



■ MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES

Ontario Student Assistance Program

A Burden Lifted

A recent university graduate complained to the Ombudsman that she had been wrongly charged interest on her student loans for a year-long period during which she was still a student. She had attempted to resolve the problem through the Ontario Student Assistance Program (OSAP), her university's financial aid office and the National Student Loan Centre (NSLC), all to no avail.

After hearing from the Ombudsman's Office, OSAP staff agreed to review her file and confirmed that her $18,936 Ontario student loan should not have accrued interest during the time she was still in university.

The Canada Student Loans Directorate of the NSLC also agreed to reverse interest charges on the complainant's $28,404 Canada student loan.

As a result of the Ombudsman's involvement, $1,381 in interest charges was removed from the woman's two student loan accounts and she received a refund of **$142**.

She wrote a thank-you letter to the Ombudsman, stating that "a huge burden was lifted" as a result of his staff's help.

■ MINISTRY OF TRANSPORTATION

An "Original" Complaint

A new bride who had been married in Antigua applied to the Ontario Ministry of Transportation to have her married name reflected on her driver's licence. She presented the required documents, including her original marriage certificate from Antigua, at two local licence issuing offices. Each time, the Ministry's head office rejected her marriage certificate as not "original."

When the woman contacted the Ministry directly, officials acknowledged that they had verified her marriage certificate with the Registrar's Office in Antigua – but because the words "true and correct copy" appeared on it, it was still not acceptable. Ministry officials advised her to either apply for a formal name change or simply leave her driver's licence in her maiden name.

After the Ombudsman's Office investigated and confirmed that the Antiguan document was original, the Ministry agreed **to change its policy on marriage certificates from foreign governments** to accept "certified copies of government-issued marriage certificates that bear the issuing official's original signature and/or a seal/stamp" as proof of legal name change. The woman obtained her driver's licence in her married name and the new policy was posted on the Ministry website.

Licence to Celebrate

A truck driver complained to the Ombudsman about delays in renewing his commercial "A-class" licence. As a result of a heart ailment, he is required to have his cardiologist send a yearly report to the Ministry of Transportation, but the doctor had failed to do so on time – prompting the Ministry to reduce the man's licence to a "G-class." Even after the cardiologist faxed his report to the Ministry, the man was told it would take 2-6 weeks to review – leaving him unable to work in the meantime.

Ombudsman staff contacted the Ministry, where officials agreed to review the man's medical forms immediately. The man was advised he could renew his A-class licence at a driver's licence office. He did so, and was back behind the wheel the next day. He thanked the Ombudsman's Office, noting that the day her received the good news about his licence was his birthday – and he was grateful for the birthday gift.

Repeat Punishment

An Ontario man complained to the Ombudsman that he was being penalized twice for a drunk-driving offence. He had previously lived in British Columbia, where he had been convicted, served his penalty, and had his B.C. driver's licence reinstated. However, upon his return to Ontario, the Ministry of Transportation repeatedly told him that provincial legislation required him to complete a driver rehabilitation program, pay to have an interlock device installed in his vehicle for a year and pay a fine before he could obtain an Ontario licence.

Believing he had no other choice, he began the process to enroll in the "Back on Track" program at a cost of approximately $600. Meanwhile, he had to rely on his pregnant wife and others to drive him and his construction equipment to work at various job sites.

Ombudsman staff reviewed the legislation that the Ministry of Transportation was relying upon, and contacted officials there, who acknowledged they were wrong to make the man pay a penalty when he had already done so in B.C. The man received his Ontario licence and a refund of his **$600**. He told the Ombudsman's Office that he would be using the refund to pay for a road trip out West with his wife and new baby.

Your Feedback

Mr. Marin, I want to thank you once again for your excellent work on behalf of the people of this province. You play a vital role in making sure the provincial government, at all times and in every way, works in the best interests of Ontarians and delivers services of the highest quality.

– Letter from Premier Dalton McGuinty, October 22, 2008

Over the past several months I have asked you to investigate several complaints about the service of the Family Responsibility Office (FRO). I would like to thank you for your assistance with these constituents. They have been very pleased with how promptly your office has investigated and resolved their cases .... I will continue to make you aware of cases I believe require your intervention. Thank you again for your responsiveness.

– Letter from Sylvia Jones, MPP, Dufferin-Caledon, January 30, 2009

I am pleased to have had the opportunity to learn more about the annual activities of your important Office. The role you play in providing an in-depth look at the work of provincial officials, particularly with respect to Legal Aid Ontario, is an invaluable benefit to the justice system and to all Ontarians.

– Letter from Hon. Heather Forster Smith, Chief Justice of the Ontario Superior Court of Justice, June 24, 2008

Ombudsman reports are opportunities to excel at and accelerate reforming government. We're on the same team; we share the same values... we all start from the common goal of public service and of seeing the problem and doing the right thing.

– Michele DiEmanuele, Credit Valley Hospital CEO and former associate secretary of cabinet, speaking at Sharpening Your Teeth, September 24, 2008

We could not have done this investigation without having the Canadian lottery experience as a reference point. You are the trailblazers.

– Lead investigator on Iowa lottery probe, Iowa State Ombudsman's Office

Ombudsman oversight is crucial for families dealing with the harsh and heart-wrenching impact of decisions that adversely affect them... Simply put, the Ombudsman should have a broad and unfettered mandate. There's no excuse for the McGuinty Liberals to stand in the way of the Ombudsman's investigation of any hospital problem, especially in light of the magnitude of the C. difficile tragedy.

– France Gélinas, MPP, Nickel Belt, column in the Sudbury Star, June 6, 2008

Congratulations on being designated one of the top "Newsmakers of the Year." You have earned it. You honour all parliamentary ombudsmen in Canada while at the same time, raising awareness of our work. Bravo and thank you.

– Raymonde Saint-Germaine, Quebec Ombudsman

I say way to go to André Marin for housecleaning areas that our elected officials seem reluctant or unable to do themselves!

– Colleen Gleeson, letter to the editor, Hamilton Spectator, June 20, 2008

[T]he Ombudsman's office has clearly accomplished more with its objective and independent approach in the past several years than this government has achieved with its poor leadership and political posturing over its entire mandate thus far.

– Tony Porcaro, letter to the editor, Welland Tribune, July 10, 2008

You rock!
Keep up the good work.

– Card from complainant

We have not given our ombudsmen access to our hospitals as is the case in the rest of the country. What are we trying to avoid or hide? The Ontario government has not followed the lead of the other provinces. Why should one of the most important institutions, which literally deals with matters of life and death, be left out of the jurisdiction of the ombudsman?

– Ron St. Louis, letter to the editor, Welland Tribune, November 17, 2008

In five other provinces the provincial ombudsman provides third-party recourse for parents when conflict arises with a school board. Ontario's ombudsman, André Marin, has proved the mandate of his office should be expanded in order to provide more protection to the public.

– Christina Buczek, letter to the editor, Toronto Sun, November 11, 2008

I wanted to thank you for helping me finally get my daughter's birth certificate. Even with all the problems, the document still came much earlier than I thought that it would. You did excellent work with this.

– Fax from complainant

feedback

I can't help expressing my admiration for the courage of Ontario Ombudsman André Marin in upholding what is good and upright in his SIU report. He did a superman's job. May there be more people like him who stand on guard to keep Canada forever strong and free.

– Andrew Magtangob, letter to the editor, Toronto Sun, October 4, 2008

Thank you for clearing up some of the messes in our MPAC system earlier....God bless you for what you have done.

– Complainant

An Ontario citizen told me what an incredible job you all are doing for the people of Ontario. Thank you!

– Card signed "A B.C. Citizen"

I thank you for everything you have done for me. I thank you from the bottom of my heart. Perhaps truth and justice will be the final outcome, not only for my case, but for others who are struggling to be heard.

– Complainant in FRO case

Why is Ontario the only province in Canada where the ombudsman has no jurisdiction to investigate public complaints about hospitals? Last year, an informal Toronto Star poll indicated that 92% of the public would favour such independent oversight. Marin is just articulating the people's wish. It is time to grant it.

– John Balatinecz, letter to the editor, Toronto Star, June 24, 2008

Comments via Twitter

Ontarians with gov problems should follow @Ont_Ombudsman – they're helpers!

Before Twitter, it would have taken me some effort to figure out how to contact my ombudsman. Now? Well, there you are!

It's great to see our Government interacting more directly with the people via services like Twitter!

Very good to see that the actual Ombudsman is tweeting for himself. Bravo. Brings government closer to citizens.

@Ont_Ombudsman: if there ever was a "gov't agency" who should be on Twitter..way to go. keep at it.

Looking for an example of a government agency using Twitter effectively? Check out the Ontario Ombudsman's office: @Ont_Ombudsman

I agree that Ontario's Ombudsman should have purview to hold the MUSH sector, and therefore the government, to account.

– Toronto District School Board trustee Josh Matlow, via Twitter

In the Media

Ombudsman André Marin's steady flow of systemic reports are strongly worded and cleverly packaged for maximum media impact. His detractors in government seethe unhappily when Marin unleashes yet another punishing exposé, but they've learned that his assertions are factual and numbers cannot be dismissed. Marin is bulletproof because he's seen as very tough but fair.

– *Inside Queen's Park, March 4, 2009*

When it comes to bureaucratic bungling, Marin is one part ombudsman, one part provincial poet laureate.

– *Jim Coyle, Toronto Star, June 20, 2008*

If there is a problem with something and you want somebody to not only identify that problem, but to also harshly critique it, André Marin is a good one to pick. The Ontario Ombudsman has a legacy of uncovering inefficiencies and incompetency in provincial government organizations and agencies.

– *Niagara Falls Review editorial, March 26, 2009*

André Marin has a flair for rooting out complacency and bad practices in government institutions. When the highly quotable Ontario ombudsman opens his mouth, officialdom squirms.

– *Toronto Star editorial, October 6, 2008*

He has been compared to a bulldog. Anyone who has ever felt the bite of Ontario's Ombudsman, André Marin, would attest that is a fair analogy.

– *Pembroke Observer editorial, July 4, 2008*

Giving the ombudsman the powers he seeks can only make things better. What's the government afraid of?

– *Sault Star editorial, June 20, 2008*

There are two reasons Premier Dalton McGuinty doesn't want to give Ombudsman André Marin the right to investigate Ontario's "MUSH" sector .... The first reason is governments instinctively resist greater openness and scrutiny. The second is the smart and media-savvy Marin scares the daylights out of them.

– *Toronto Sun editorial, June 19, 2008*

feedback

In the Media

The Ombudsman is an effective agent for the public.

– *The Sudbury Star editorial, June 21, 2008*

We are thankful that [André] Marin is standing up for thousands of Ontario's most vulnerable citizens.

– *Timmins Daily Press editorial, July 18, 2008*

With so much at stake in terms of dollars and importance, it makes no sense for the McGuinty government to refuse to allow Ontario's Ombudsman to investigate complaints at hospitals, long-term care facilities, schools and universities. We fail to see why health care and education are off-limits to the Ombudsman. If everything is OK in these sectors that account for the bulk of provincial spending, why not let the Ombudsman look into complaints? If everything is not OK, the Ombudsman will help set things right.

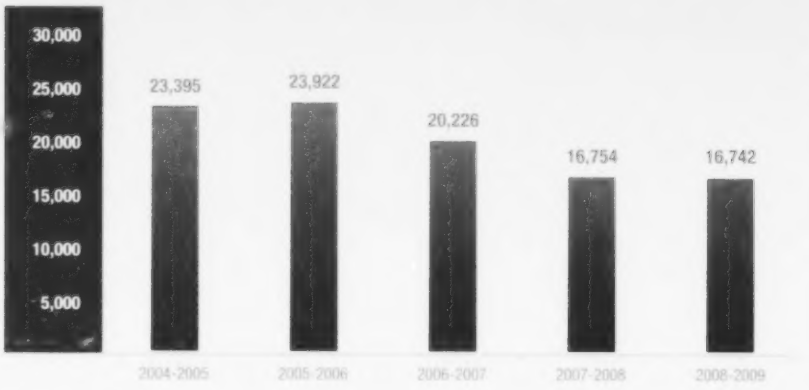
– *Brantford Expositor editorial, June 21, 2008*

Taxpayers, patients and democracy would be better served by a provincial ombudsman with the resources and mandate to ensure transparency and accountability are the rule, not the exception.

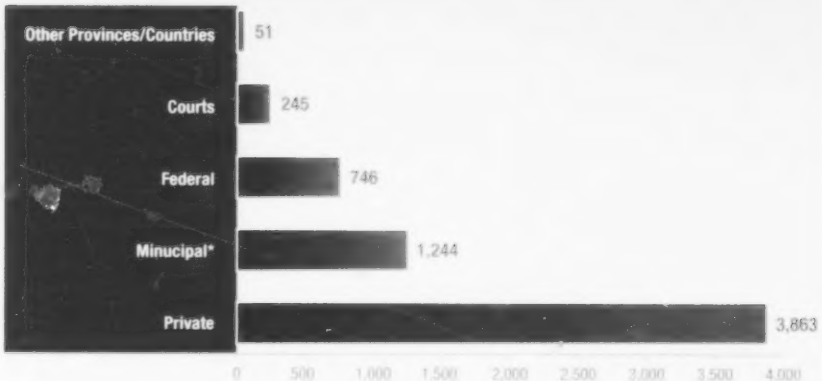
– *Windsor Star editorial, June 23, 2008*

Appendix 1: **Complaint Statistics**

TOTAL COMPLAINTS AND INQUIRIES
RECEIVED FISCAL YEARS 2004-2005 TO 2008-2009



COMPLAINTS AND INQUIRIES OUTSIDE THE
OMBUDSMAN'S AUTHORITY RECEIVED 2008-2009 TOTAL: 6,149



*Includes complaints and inquiries about municipalities, school boards and police

Appendix 1: Complaint Statistics

TOTAL COMPLAINTS AND INQUIRIES
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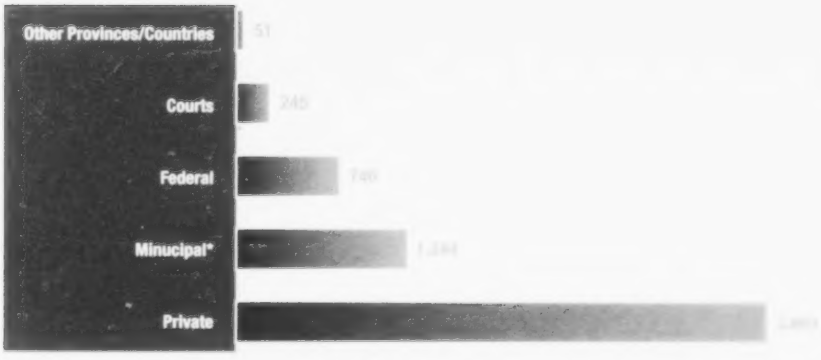
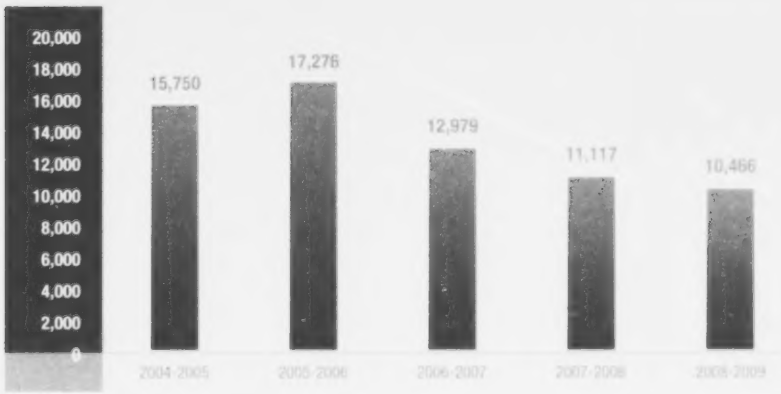
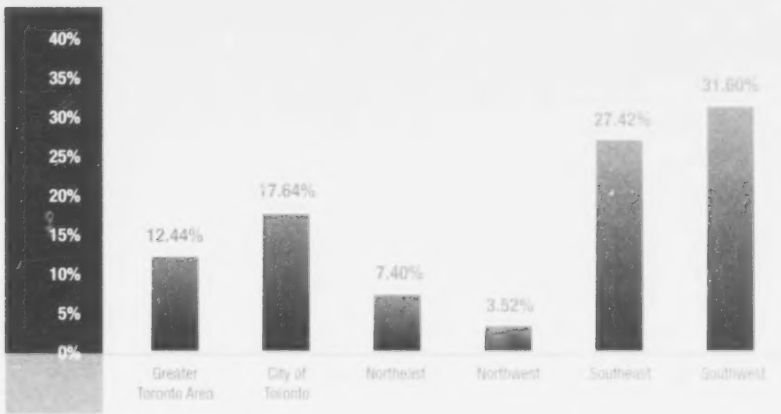


Appendix 1: **Complaint Statistics**

TOTAL COMPLAINTS AND INQUIRIES WITHIN THE OMBUDSMAN'S AUTHORITY RECEIVED FISCAL YEARS 2004-2005 TO 2008-2009



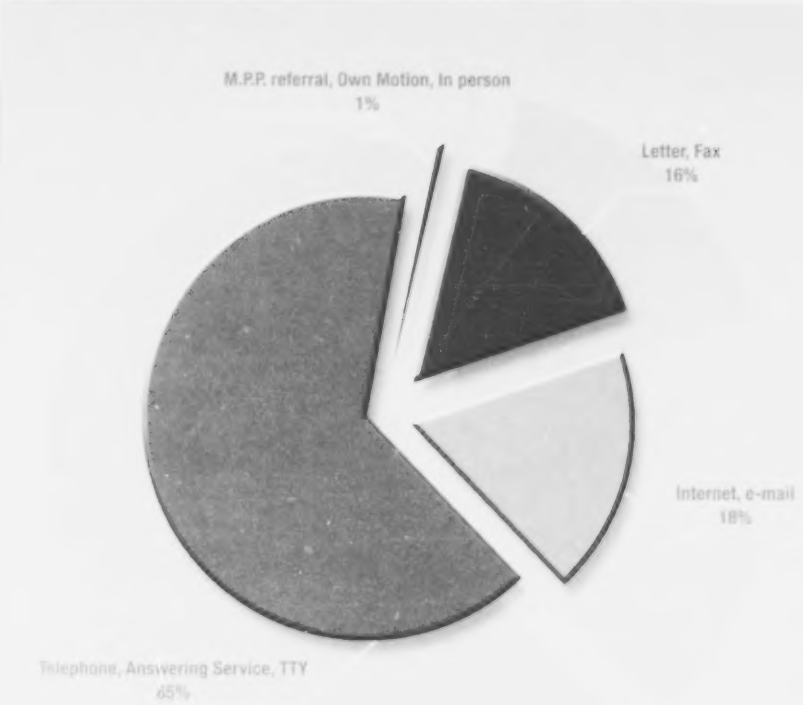
REGIONAL DISTRIBUTION OF COMPLAINANTS 2008-2009



Greater Toronto Area: Bounded by Oakville, Lake Simcoe and Oshawa, but excluding the City of Toronto
City of Toronto: Bounded by Etobicoke, Bridal Avenue and Scarborough
Northeast: Bounded by Ottawa, Pembroke/Renfrew and Manitoulin/North to Hudson's Bay
Northwest: West of the Manitoulin/Hudson's Bay boundary
Southeast: Bounded by the GTA, Peterborough/Renfrew and Ottawa
Southwest: Bounded by the GTA, Barrie and Peterborough

Appendix 1: **Complaint Statistics**

HOW COMPLAINTS AND INQUIRIES WERE RECEIVED
2008-2009



Appendix 1: Complaint Statistics

TOP 20 PROVINCIAL GOVERNMENT ORGANIZATIONS AND PROGRAMS COMPLAINED ABOUT IN 2008-2009

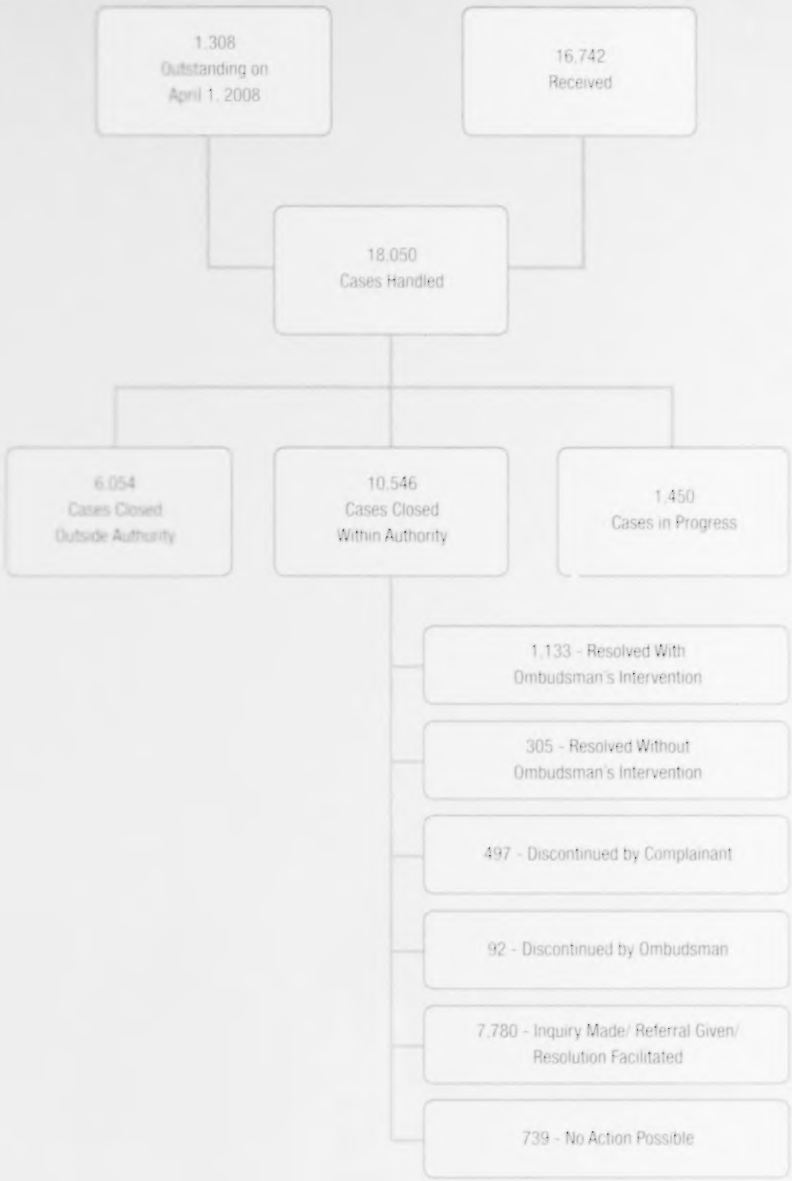
		Number of Complaints and Inquiries	Percentage Provincial Complaints and Inquiries
1	CENTRAL NORTH CORRECTIONAL CENTRE	831	7.94%
2	FAMILY RESPONSIBILITY OFFICE	771	7.37%
3	ONTARIO DISABILITY SUPPORT PROGRAM	492	4.70%
4	OTTAWA-CARLETON DETENTION CENTRE	478	4.57%
5	WORKPLACE SAFETY AND INSURANCE BOARD	460	4.40%
6	CENTRAL EAST CORRECTIONAL CENTRE	459	4.39%
7	MUNICIPAL PROPERTY ASSESSMENT CORPORATION	349	3.33%
8	MAPLEHURST CORRECTIONAL COMPLEX	346	3.31%
9	TORONTO WEST DETENTION CENTRE	317	3.03%
10	ELGIN-MIDDLESEX DETENTION CENTRE	220	2.10%
11	SPECIAL NEEDS PROGRAMS - CHILDREN	197	1.88%
12	TORONTO JAIL	185	1.77%
13	DRIVER LICENSING	176	1.68%
14	HYDRO ONE	175	1.67%
15	VANIER CENTRE FOR WOMEN	171	1.63%
16	NIAGARA DETENTION CENTRE	170	1.62%
17	TORONTO EAST DETENTION CENTRE	165	1.58%
18	REGISTRAR GENERAL	163	1.56%
19	MINISTRY OF HEALTH AND LONG-TERM CARE - LONG-TERM CARE BRANCH	161	1.54%
20	ONTARIO LOTTERY AND GAMING CORPORATION	144	1.38%

MOST COMMON TYPES OF COMPLAINTS INVESTIGATED 2008-2009

1	Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, information or evidence
2	Failure of governmental organization to adhere to own processes, guidelines or policies or to apply them in a consistent manner
3	Failure to adequately or appropriately communicate with a client
4	Adverse impact or discriminatory consequence of a decision or policy on an individual or group
5	Omission to monitor or manage an agency for which the governmental organization is responsible
6	Insufficient reasons for a decision or no reasons given
7	Failure to provide sufficient or proper notice
8	Unreasonable delay
9	Harrassment by a governmental official; bias; mismanagement; bad faith
10	Inadequate or improper investigation was conducted

Appendix 1: Complaint Statistics

DISPOSITION OF COMPLAINTS AND INQUIRIES
2008-2009



Appendix 1: Complaint Statistics

TOTAL COMPLAINTS AND INQUIRIES RECEIVED 2008-2009 FOR PROVINCIAL GOVERNMENT MINISTRIES AND SELECTED ORGANIZATIONS*

Ministry	Selected Organizations	Organization Total	Ministry Total
MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS			28
MINISTRY OF THE ATTORNEY GENERAL			578
	ASSESSMENT REVIEW BOARD	16	
	CHILDREN'S LAWYER	31	
	CRIMINAL INJURIES COMPENSATION BOARD	54	
	CROWN ATTORNEYS	23	
	HUMAN RIGHTS TRIBUNAL OF ONTARIO	27	
	LEGAL AID ONTARIO	112	
	ONTARIO HUMAN RIGHTS COMMISSION	108	
	ONTARIO MUNICIPAL BOARD	18	
	PUBLIC GUARDIAN AND TRUSTEE	111	
	SPECIAL INVESTIGATIONS UNIT	25	
MINISTRY OF CHILDREN AND YOUTH SERVICES			281
	CHILD AND FAMILY SERVICES REVIEW BOARD	10	
	SPECIAL NEEDS PROGRAMS - CHILDREN	197	
	YOUTH FACILITIES	37	
MINISTRY OF COMMUNITY AND SOCIAL SERVICES			1382
	FAMILY RESPONSIBILITY OFFICE	771	
	ONTARIO DISABILITY SUPPORT PROGRAM	492	
	SOCIAL BENEFITS TRIBUNAL	51	
	SPECIAL NEEDS PROGRAMS - ADULT	19	
MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES			4580
	CORRECTIONAL CENTRES, DETENTION CENTRES, JAILS	4281	
	OFFICE OF THE CHIEF CORONER	29	
	ONTARIO CIVILIAN COMMISSION ON POLICE SERVICES	17	
	ONTARIO PROVINCIAL POLICE	65	
	PROBATION AND PAROLE SERVICES	33	
MINISTRY OF EDUCATION			61
	TORONTO CATHOLIC DISTRICT SCHOOL BOARD	15	
MINISTRY OF ENERGY AND INFRASTRUCTURE			362
	HYDRO ONE	175	
	ONTARIO ENERGY BOARD	19	
	ONTARIO LOTTERY AND GAMING CORPORATION	144	
MINISTRY OF THE ENVIRONMENT			68
MINISTRY OF FINANCE			451
	FINANCIAL SERVICES COMMISSION	35	
	MUNICIPAL PROPERTY ASSESSMENT CORPORATION	349	
	ONTARIO LIQUOR CONTROL BOARD	16	
	ONTARIO SECURITIES COMMISSION	12	

* Total figures are reported for each provincial government ministry including all agencies and programs falling within its purview. Each government agency or program receiving 10 or more complaints and inquiries is also indicated.

** This includes complaints and inquiries about the Office of the Premier, Legislative Assembly and other officers of the Legislature.

Appendix 1: Complaint Statistics

TOTAL COMPLAINTS AND INQUIRIES RECEIVED 2008-2009 FOR PROVINCIAL GOVERNMENT MINISTRIES AND SELECTED ORGANIZATIONS*

Ministry	Selected Organizations	Organization Total	Ministry Total
MINISTRY OF GOVERNMENT SERVICES			284
	ALCOHOL AND GAMING COMMISSION OF ONTARIO	11	
	LAND REGISTRY/TITLES	11	
	LICENCE APPEAL TRIBUNAL	12	
	REGISTRAR GENERAL	163	
	SERVICEONTARIO	17	
MINISTRY OF HEALTH AND LONG-TERM CARE			723
	ASSISTIVE DEVICES / HOME OXYGEN PROGRAMS	19	
	COMMUNITY CARE ACCESS CENTRES	42	
	DRUG PROGRAMS BRANCH	59	
	HEALTH PROFESSIONS APPEAL AND REVIEW BOARD	26	
	LOCAL HEALTH INTEGRATION NETWORKS	64	
	LONG-TERM CARE BRANCH	161	
	NORTHERN HEALTH TRAVEL GRANT	14	
	ONTARIO HEALTH INSURANCE PLAN	122	
	WILLIAM OSLER HEALTH CENTRE	11	
MINISTRY OF LABOUR			667
	EMPLOYMENT PRACTICES BRANCH	42	
	ONTARIO LABOUR RELATIONS BOARD	21	
	WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL	99	
	WORKPLACE SAFETY AND INSURANCE BOARD	460	
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING			116
	LANDLORD AND TENANT BOARD	90	
MINISTRY OF NATURAL RESOURCES			96
	CROWN LAND	21	
	LICENCES/TAGS	10	
MINISTRY OF NORTHERN DEVELOPMENT AND MINES			10
MINISTRY OF REVENUE			29
MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES			300
	APPRENTICESHIPS / WORK TRAINING	17	
	COLLEGES OF APPLIED ARTS AND TECHNOLOGY	58	
	ONTARIO STUDENT ASSISTANCE PROGRAM	137	
MINISTRY OF TRANSPORTATION			384
	DRIVER LICENSING	176	
	HIGHWAYS	25	
	MEDICAL REVIEW	79	
	VEHICLE LICENSING	50	
ONTARIO GOVERNMENT - OTHER **			40

* Total figures are reported for each provincial government ministry, including all agencies and programs falling within its portfolio. Each government agency or program receiving 10 or more complaints and inquiries is also indicated.

** This includes complaints and inquiries about the Office of the Premier, Legislative Assembly and other officers of the Legislature.

Appendix 1: Complaint Statistics

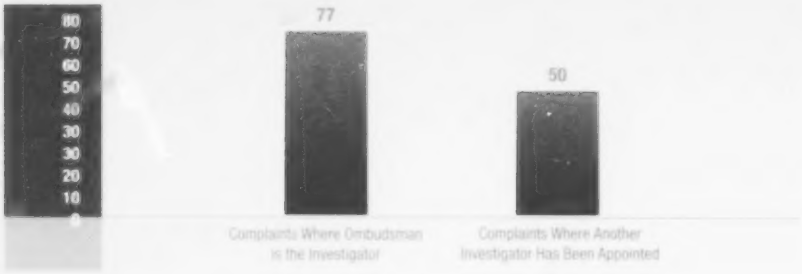
COMPLAINTS AND INQUIRIES RECEIVED 2008-2009 BY PROVINCIAL RIDING*

Ajax-Pickering	79	Niagara West-Glanbrook	78
Algoma-Manitoulin	161	Nickel Belt	80
Ancaster-Dundas-Flamborough-Westdale	88	Nipissing	169
Barrie	123	Northumberland-Quinte West	118
Beaches-East York	81	Oak Ridges-Markham	64
Bramalea-Gore-Malton	60	Oakville	91
Brampton-Springdale	58	Oshawa	120
Brampton West	78	Ottawa Centre	91
Brant	110	Ottawa-Orleans	516
Bruce-Grey-Owen Sound	156	Ottawa South	44
Burlington	84	Ottawa-Vanier	59
Cambridge	107	Ottawa West-Nepean	73
Carleton-Mississippi Mills	61	Oxford	62
Chatham-Kent-Essex	81	Parkdale-High Park	93
Davenport	63	Parry Sound-Muskoka	123
Don Valley East	66	Perth-Wellington	66
Don Valley West	54	Peterborough	85
Dufferin-Caledon	121	Pickering-Scarborough East	42
Durham	100	Prince Edward-Hastings	170
Eglinton-Lawrence	84	Renfrew-Nipissing-Pembroke	65
Elgin-Middlesex-London	344	Richmond Hill	68
Essex	205	Sarnia-Lambton	193
Etobicoke Centre	55	Sault Ste. Marie	278
Etobicoke-Lakeshore	101	Scarborough-Agincourt	53
Etobicoke North	404	Scarborough Centre	50
Glengarry-Prescott-Russell	57	Scarborough-Guildwood	101
Guelph	101	Scarborough-Rouge River	41
Haldimand-Norfolk	86	Scarborough Southwest	263
Haliburton-Kawartha Lakes-Brock	553	Simcoe-Grey	87
Halton	564	Simcoe North	913
Hamilton Centre	197	St. Catharines	128
Hamilton East-Stoney Creek	93	St. Paul's	105
Hamilton Mountain	82	Stormont-Dundas-South Glengarry	86
Huron-Bruce	117	Sudbury	202
Kenora-Rainy River	165	Thornhill	80
Kingston and the Islands	128	Thunder Bay-Atikokan	125
Kitchener Centre	92	Thunder Bay-Superior North	144
Kitchener-Conestoga	56	Timiskaming-Cochrane	249
Kitchener-Waterloo	66	Timmins-James Bay	89
Lambton-Kent-Middlesex	93	Toronto Centre	192
Lanark-Frontenac-Lennox and Addington	225	Toronto-Danforth	268
Leeds-Grenville	168	Trinity-Spadina	135
London-Fanshawe	107	Vaughan	61
London North Centre	134	Welland	243
London West	115	Wellington-Halton Hills	65
Markham-Unionville	37	Whitby-Oshawa	86
Mississauga-Brampton South	44	Willowdale	62
Mississauga East-Cooksville	58	Windsor-Tecumseh	97
Mississauga-Erindale	61	Windsor West	143
Mississauga South	69	York Centre	87
Mississauga-Streetsville	55	York-Simcoe	76
Nepean-Carleton	71	York South-Weston	62
Newmarket-Aurora	83	York West	50
Niagara Falls	190		

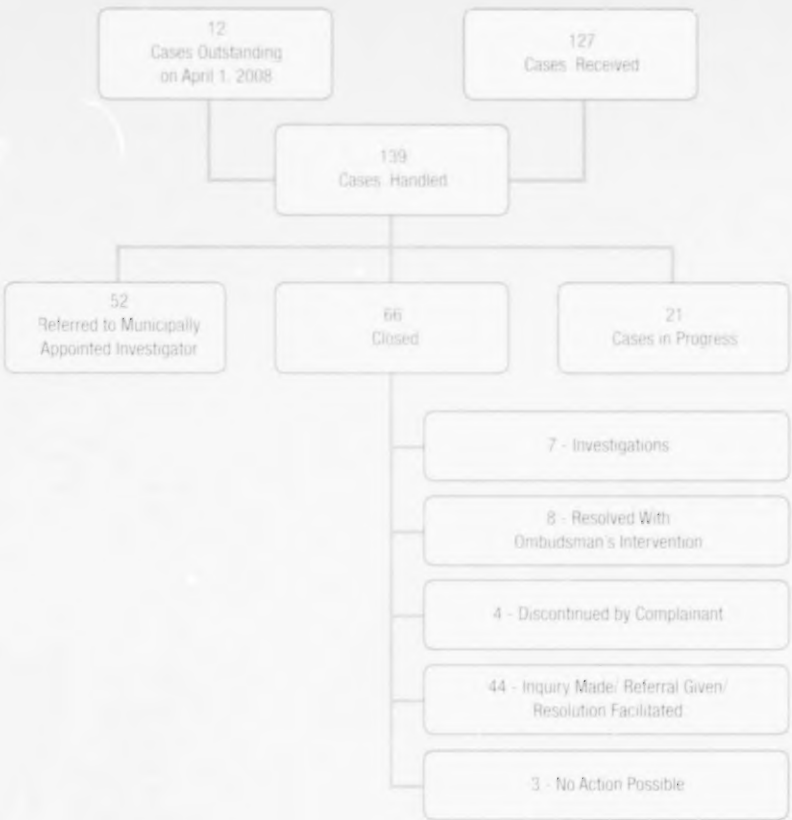
* Where a valid postal code is available

Appendix 1: Complaint Statistics

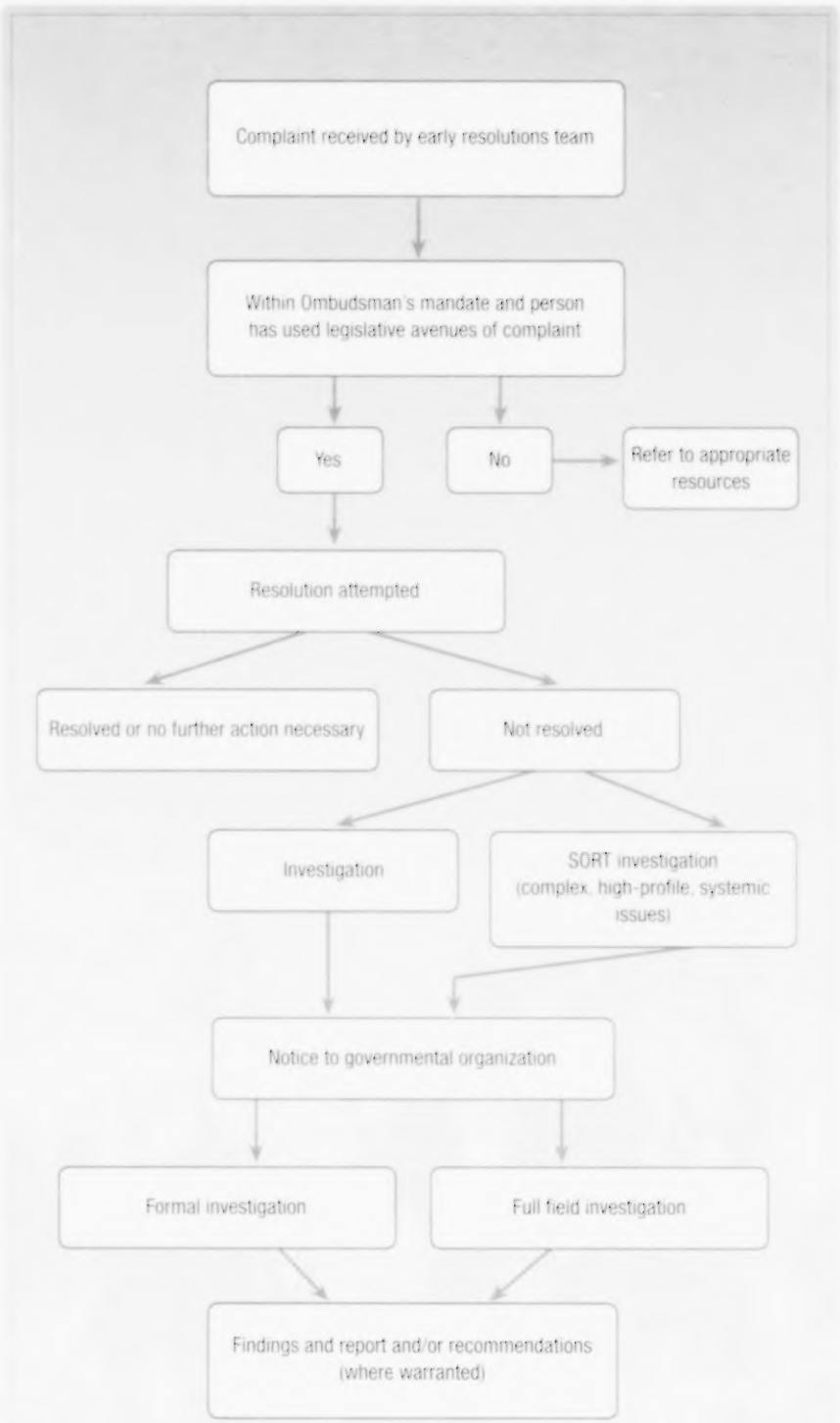
COMPLAINTS AND INQUIRIES RECEIVED
ABOUT CLOSED MUNICIPAL MEETINGS 2008 - 2009



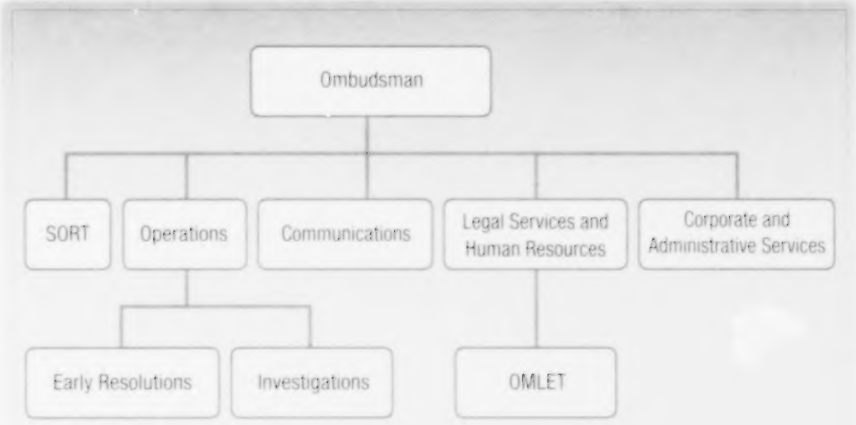
DISPOSITION OF COMPLAINTS AND INQUIRIES
ABOUT CLOSED MUNICIPAL MEETINGS



Appendix 2: **How We Work**


Complaint received by early resolutions team
Within Ombudsman's mandate and person has used legislative avenues of complaint
Yes
No
Refer to appropriate resources
Resolution attempted
Resolved or no further action necessary
Not resolved
Investigation
SORT investigation (complex, high-profile, systemic issues)
Notice to governmental organization
Formal investigation
Full field investigation
Findings and report and/or recommendations (where warranted)

Appendix 3: About the Office



Special Ombudsman Response Team (SORT): SORT is tasked with conducting extensive field investigations into complex, systemic, high-profile cases. SORT works in collaboration with the Ombudsman's operations team and investigators are assigned to SORT on the basis of their specific abilities and areas of expertise.

Operations: The Operations team, led by the Deputy Ombudsman, includes an early resolutions team and an investigations team. The early resolutions team operates as the Office's front line, taking in complaints, assessing them and providing advice, guidance, and referrals. Early resolution officers use a variety of conflict resolution techniques to resolve complaints that fall within the Ombudsman's jurisdiction. The investigations team is comprised of experienced investigators who conduct independent, focused and timely investigations of both individual and systemic complaints.

Communications: In addition to publishing the Annual and SORT reports, as well as managing the Office's website and social media presence and overseeing outreach activities, the Communications team provides support to the Ombudsman in media interviews, press conferences, speeches and public statements on the results of investigations.

Legal Services and Human Resources: The team, led by the Office's General Counsel, supports the Ombudsman and his staff, overseeing human resources, ensuring that the Office functions within its legislative mandate and providing expert advice in support of the resolution and investigation of complaints. Members of the team play a key role in the review and analysis of evidence during investigations and the preparation of reports and recommendations. In addition, the Open Meeting Law Enforcement Team (OMLET) reviews and investigates complaints about closed municipal meetings to ensure pursuant to the *Municipal Act, 2001*. OMLET also engages in education and outreach with municipal councils and the public with respect to the open meeting requirements of the Act and best practices to ensure transparency at the municipal government level.

Corporate and Administrative Services: The Corporate and Administrative Services team provides support in the areas of finance, administration and information technology.

Appendix 4: Financial Report

During the fiscal year 2008-2009, the total operating budget allocated for the Office was $10.03 million. Miscellaneous revenue returned to the government amounted to $70,000, resulting in net expenditures of $9.96 million. The largest categories of expenditures relate to salaries and benefits at $7.7 million, which accounts for 77% of the Office's annual operating expenditures.

SUMMARY OF EXPENDITURES

	($000)
Salaries and wages	$6,217
Employee benefits	$1,522
Transportation and communications	$336
Services	$1,552
Supplies and equipment	$403
Annual Operating Expenses	**$10,030**
Less: Miscellaneous revenue	$70
Net Expenditures	**$9,960**

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Annual Report
2008-2009